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Wednesday
January 30, 1985

Selected Subjects

Air Carriers
Federal Aviation Administration

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Endangered and Threatened Species
Fish and Wildlife Service

Food Grades and Standards
Food and Drug Administration

Government Procurement
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Federal Highway Administration

Marine Mammals
National Oceanic and Atmospheric Administration

Museums
Arts and Humanities, National Foundation

Natural Gas
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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 5294 of January 28, 1985

Import Quotas on Certain Sugar Containing Articles

By the President of the United States of America

A Proclamation

1. By Proclamation No. 5071 of June 28, 1983, I imposed, on an emergency basis, import quotas on certain sugars, blended sirups, and sugars mixed with other ingredients. These quotas were to be effective pending my further action after receipt of the report and recommendations of the United States International Trade Commission (hereinafter "Commission") on this matter pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) (hereinafter "Section 22"). The Commission has made its investigation and reported its findings to me.

2. The Secretary of Agriculture has advised me that he has reason to believe that certain other sugar containing articles, not covered by Proclamation No. 5071, are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets.

3. I agree that there is reason for such belief by the Secretary of Agriculture and, therefore, I am requesting the Commission to make an investigation with respect to this matter pursuant to Section 22, and report its findings and recommendations to me as soon as possible.

4. The Secretary of Agriculture has also determined and reported to me with regard to the sugar containing articles described in paragraph (B) below that a condition exists which requires emergency treatment and that the import quotas hereinafter proclaimed should be imposed without awaiting the report and recommendations of the Commission.

5. On the basis of the information submitted to me, I find and declare that:

(a) On the basis of the report and recommendations of the Commission, the articles described in items 958.10 and 958.15 of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support operations of the Department of Agriculture for sugar cane and sugar beets;

(b) A condition exists requiring the imposition, on an emergency basis, of the import quotas hereinafter proclaimed with regard to the sugar containing articles described in paragraph (B) below; and

(c) The representative period within the meaning of the first proviso to subsection (b) of Section 22 is, for imports of the articles described in TSUS items 958.10 and 958.15, the years 1978–81, during which there were no imports of the articles described in TSUS items 958.10 and 958.15; and for imports described in paragraph (B) below, the years 1978–81.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by Section 22 of the Agricultural Adjustment Act of 1933, as amended, and the Constitution and Statutes of the United States, do hereby proclaim as follows:

(A) TSUS items 958.10 and 958.15 of Part 3 of the Appendix to the Tariff Schedules of the United States are continued in effect subject to the provisions of paragraph (C) below;

(B) Part 3 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence following TSUS item 958.15 the following items:

Item	*Articles*	*Quota Quantity*	*Effective Period*
	During the period beginning on the effective date of this proclamation through September 30, 1985, if the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:		
	Articles containing sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:		
958.16	Provided for in TSUS item 156.45	1,000 short tons	Until 10/1/85
958.17	Provided for in TSUS item 183.01	2,500 short tons	Until 10/1/85
958.18	Provided for in TSUS item 183.05	28,000 short tons	Until 10/1/85

Beginning October 1, 1985, whenever, in any 12-month period beginning October 1 in any year, the respective aggregate quantity specified below for one of the numbered classes of articles has been entered, no article in such class may be entered during the remainder of such period:

	Articles containing sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, except articles within the scope of TSUS items 958.10, 958.15 or other import restrictions provided for in part 3 of the Appendix to the Tariff Schedules of the United States:	
958.20	Provided for in TSUS item 156.45	3,000 short tons
958.25	Provided for in TSUS item 183.01	7,000 short tons
958.30	Provided for in TSUS item 183.05	84,000 short tons

(C) The provisions of this proclamation shall terminate upon the filing of a notice in the **Federal Register** by the Secretary of Agriculture that the Department of Agriculture is no longer conducting a price support program for sugar cane and sugar beets.

(D) Pending Presidential action upon receipt of the report and recommendations of the Commission referenced in paragraph 3 above, the quotas established by paragraph (B) of this proclamation shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the effective date of this proclamation. However, those quotas shall not apply to articles entered, or withdrawn from warehouse, for consumption if application of those quotas would prevent the entry, or withdrawal from warehouse, for consumption of the articles and if the articles were (1) exported from the country of origin prior to the effective date of this proclamation and (2) imported directly into the United States, as determined by the appropriate customs officials, in accordance with the criteria set forth at 19 CFR 10.174, 10.175 (1984).

(E) This proclamation shall be effective as of 12:01 a.m. Eastern Standard Time on the day following the date of its signing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of Jan., in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-2554
Filed 1-28-85; 4:19 pm.]
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Presidential Documents

Executive Order 12501 of January 28, 1985

Arctic Research

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Arctic Research and Policy Act of 1984 (Title I of Public Law 98–373) ("the Act"), it is hereby ordered as follows:

Section 1. *Establishment of Arctic Research Commission.* There is established the Arctic Research Commission.

Sec. 2. *Membership of the Commission.*

(a) The Commission shall be composed of five members appointed by the President, as follows:

(1) three members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social, and behavioral sciences;

(2) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resources development; and

(3) one member appointed from individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

The Director of the National Science Foundation shall serve as a nonvoting *ex officio* member of the Commission. The President shall designate a Chairperson from among the five voting members of the Commission.

(b) In making initial appointments to the Commission, the President shall designate one member to serve for a term of two years, two members to serve for terms of three years, and two members to serve for terms of four years as provided by Section 103(c) of the Act. Upon the expiration of these initial terms of office, the term of office of each member of the Commission shall be four years.

(c) Each of the Federal agencies represented on the Interagency Committee established by Section 7 of this Order may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities of their agencies relating to Arctic research.

Sec. 3. *Meetings of the Commission.*

The Commission shall meet at the call of the Chairman or a majority of its members. The Commission annually shall conduct at least one public meeting in the State of Alaska.

Sec. 4. *Functions of the Commission.*

(a) The Commission shall:

(1) develop and recommend an integrated national Arctic research policy;

(2) assist, in cooperation with the Interagency Arctic Research Policy Committee established by Section 7 of this Order, in establishing a national Arctic research program plan to implement the Arctic research policy;

(3) facilitate cooperation between the Federal government and State and local governments with respect to Arctic research;

(4) review Federal research programs in the Arctic and suggest improvements in coordination among programs;

(5) recommend methods to improve logistical planning and support for Arctic research as may be appropriate;

(6) suggest methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;

(7) offer other recommendations and advice to the Interagency Arctic Research Policy Committee as it may find appropriate; and

(8) cooperate with the Governor of the State of Alaska, and with agencies and organizations of that State which the Governor may designate, with respect to the formulation of Arctic research policy.

(b) Not later than January 31 of each year, the Commission shall:

(1) submit to the President and Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year; and

(2) publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Arctic Research Policy Committee in the performance of its duties.

Sec. 5. *Responsibilities of Federal Agencies.*

(a) The heads of Executive agencies shall, to the extent permitted by law, and in accordance with Section 105 of the Act, provide the Commission such information as it may require for purposes of carrying out its functions.

(b) The heads of Executive agencies shall, upon reimbursement to be agreed upon by the Commission and the agency head, permit the Commission to utilize their facilities and services to the extent that the facilities and services are needed for the establishment and development of an Arctic research policy. The Commission shall take every feasible step to avoid duplication of effort.

(c) All Federal agencies shall consult with the Commission before undertaking major Federal actions relating to Arctic research.

Sec. 6. *Administration of the Commission.* Members of the Commission who are otherwise employed for compensation shall serve without compensation for their work on the Commission, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service. Members of the Commission who are not otherwise employed for compensation shall be compensated for each day the member is engaged in actual performance of duties as a member, not to exceed 90 days of service each calendar year, at a rate equal to the daily equivalent of the rate for GS–16 of the General Schedule.

Sec. 7. *Establishment of Interagency Arctic Research Policy Committee.* There is established the Interagency Arctic Research Policy Committee (the "Interagency Committee"). The National Science Foundation shall serve as lead agency on the Interagency Committee and shall be responsible for implementing Arctic research policy.

Sec. 8. *Membership of the Interagency Committee.*

The Interagency Committee shall be composed of representatives of the following Federal agencies or their designees:

(a) National Science Foundation;

(b) Department of Commerce;

(c) Department of Defense;

(d) Department of Energy;

(e) Department of the Interior;

(f) Department of State;

(g) Department of Transportation;

(h) Department of Health and Human Services;

(i) National Aeronautics and Space Administration;

(j) Environmental Protection Agency;

(k) Office of Science and Technology Policy; and

(l) any other Executive agency that the Director of the National Science Foundation shall deem appropriate. The Director of the National Science Foundation or his designee shall serve as Chairperson of the Interagency Committee.

Sec. 9. *Functions of the Interagency Committee.* (a) The Interagency Committee shall:

(1) survey Arctic research conducted by Federal, State, and local agencies, universities, and other public and private institutions to help determine priorities for future Arctic research, including natural resources and materials, physical and biological sciences, and social and behavioral sciences;

(2) work with the Commission to develop and establish an integrated national Arctic research policy that will guide Federal agencies in developing and implementing their research programs in the Arctic;

(3) consult with the Commission on:

(a) the development of the national Arctic research policy and the 5-year plan implementing the policy;

(b) Arctic research programs of Federal agencies;

(c) recommendations of the Commission on future Arctic research; and

(d) guidelines for Federal agencies for awarding and administering Arctic research grants;

(4) develop a 5-year plan to implement the national policy, as provided in section 109 of the Act;

(5) provide the necessary coordination, data, and assistance for the preparation of a single integrated, coherent, and multi-agency budget request for Arctic research, as provided in section 110 of the Act;

(6) facilitate cooperation between the Federal government and State and local governments in Arctic research, and recommend the undertaking of neglected areas of research;

(7) coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State;

(8) cooperate with the Governor of the State of Alaska in fulfilling its responsibilities under the Act; and

(9) promote Federal interagency coordination of all Arctic research activities, including:

(a) logistical planning and coordination; and

(b) the sharing of data and information associated with Arctic research, subject to section 552 of title 5, United States Code.

(b) Not later than January 31, 1986, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President a report concerning:

(1) its activities and accomplishments since its last report; and

(2) the activities of the Commission, detailing with particularity the recommendations of the Commission with respect to Federal activities in Arctic research.

Sec. 10. *Public Participation.* The Interagency Committee will provide public notice of its meetings and an opportunity for the public to participate in the development and implementation of national Arctic research policy.

Sec. 11. *Administration of Interagency Committee.* Each agency represented on the Committee shall, to the extent permitted by law and subject to the availability of funds, provide the Committee with such administrative services, facilities, staff, and other support services as may be necessary for effective performance of its functions.

Ronald Reagan

THE WHITE HOUSE,
January 28, 1985.

[FR Doc. 85-2555
Filed 1-28-85; 4:20 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12502 of January 28, 1985

Chemical Warfare Review Commission

By the authority vested in me as President by the Constitution of the laws of the United States of America, and in order to establish, in accordance with the provisions of Section 1511 of the Department of Defense Authorization Act, 1985 (Public Law 98–525), and of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), a Chemical Warfare Review Commission, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Chemical Warfare Review Commission. The Commission shall be composed of no more than nine members appointed or designated by the President. The membership shall be bipartisan.

(b) The President shall designate a Chairman from among the members of the Commission.

Sec. 2. *Functions.* (a) The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions. In conducting its review, the Commission shall take account of the considerations specified in Section 1511 of Public Law 98–525.

(b) The Commission shall make sequential reports to the President on its findings and recommendations, by February 15, 1985, as to the need to maintain a chemical retaliatory stockpile; by March 1, 1985, as to the adequacy of the current stockpile if one has been determined to be needed; and by March 15, 1985, as to whether the United States should produce binary chemical munitions or undertake other actions.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707), to the extent funds are available therefor.

(c) The Secretary of Defense shall provide the Commission with such administrative services, facilities, staff and other support services as may be necessary. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Defense.

Sec. 4. *General.* (a) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Commission, shall be performed by the Secretary of Defense, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 30 days after submission of its report, or on September 30, 1985, whichever date is earlier.

Ronald Reagan

THE WHITE HOUSE,
January 28, 1985.

[FR Doc. 85-2556
Filed 1-28-85; 4:21 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 20
Wednesday, January 30, 1985

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

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 564

[No. 85-58]

Brokered Deposits; Limitations on Deposit Insurance

Dated: January 23, 1985.

AGENCY: The Federal Home Loan Bank Board.

ACTION: Clarification of amendment to final rule.

SUMMARY: On March 26, 1984, the Board adopted a final rule limiting the extent of FSLIC insurance coverage on accounts placed by or through deposit brokers. *See* 49 FR 13,003 (April 2, 1984). That rule had an effective date of October 1, 1984.

On June 20, 1984, the United States District Court for the District of Columbia ruled that the insurance rule was invalid, and enjoined the Board from enforcing the rule. *See F.A.I.C. Securities v. U.S., et al.* Civ. Action No. 84-0959, June 20, 1984 (D.D.C.). The Board has appealed the Court's decision to the United States Court of Appeals for the District of Columbia Circuit. During September of 1984, it became apparent that the Court of Appeals would not be able to rule on the appeal until some time after the October 1, 1984 effective date. On September 28, 1984, the Board amended the final rule by postponing its effective date (*see* 49 FR 38924 (October 1, 1984)), until February 1, 1985, in the belief that the Court of Appeals could issue a ruling by that time. In the supplementary information to that amendment, the Board made clear its intent that the rulemaking in question was not an attempt to put the final rule into effect should the district court's injunction continue, but was instead only an effort to clarify the Board's intent concerning the application of the rule should it ultimately be held to be valid.

In spite of this clarifying information and the Board's express statement of its intent to abide by the district court's order and injunction pending the Board's appeal, there have recently been a large number of inquiries regarding the Board's intent after February 1, 1985.

It is now apparent that the Court of Appeals may not be able to rule prior to February 1, 1985. In order to allay further concerns, the Board reiterates that it does not intend to implement the March 26, 1984, final rule unless and until the injunction is lifted or set aside.

The Board hopes that this statement will clarify its intent concerning this issue to a degree sufficient to avoid further misinterpretation of its September 28, 1984, action.

DATE: January 23, 1985.

FOR FURTHER INFORMATION CONTACT: Christopher P. Bolle, Attorney, (202) 377-7057, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

By the Federal Home Loan Bank Board.

Norman H. Raiden,

General Counsel

[FR Doc. 85-2266 Filed 1-29-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-65-AD; Amdt. 39-4986]

Airworthiness Directives: Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes which requires repetitive functional tests of the ram air turbine. Several incidents have been reported where the turbine failed to operate. The functional checks and ground tests are necessary to detect inoperative ram air turbines and ensure their availability in an emergency.

EFFECTIVE DATE: March 1, 1985.

ADDRESS: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch; telephone (206) 431-2979, Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: An incident has been reported where a ram air turbine failed to operate during a test flight. Corrosion was found in the turbine. Water had entered at the joint between the spinner and the hub assembly. Two other incidents occurred where ram air turbines failed to operate during tests, due to high torque resistance attributed to excessive seal friction. The Direction Generale de l'Aviation Civile (DGAC), the Civil Aviation Authority of France, has issued an AD which mandates compliance with the requirements of Dowty Rotol Service Bulletins, 29-101 and 29-72.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the action mentioned above was published in the Federal Register on August 8, 1984 (49 FR 31702). The comment period closed September 28, 1984, and interested persons have been afforded an opportunity to participate in the making of this amendment.

Two comments were received. One commenter indicated that he has completed the AD requirements on all his airplanes. The other commenter stated that the world fleet of A300 airplanes has accomplished the requirements of the AD and, therefore, there is no reason for issuing a final rule. The FAA disagrees. The FAA has received no verification that the world fleet of A300 airplanes has accomplished the AD requirements. The FAA has determined that the U.S. fleet of A300 airplanes has accomplished these requirements. However, the AD is issued to cover the import of A300 airplanes that may not have

accomplished the inspections and modifications.

This amendment will have no economic impact on U.S. operators since they have reported that all the current U.S. fleet of Model A300 airplanes have been modified. However, for any unmodified airplane, it will take approximately 8 manhours per airplane per year to accomplish the required actions of this AD, and the average cost will be $40 per manhour. Based on these figures, the total cost impact per year of this AD will be $320 per (un-modified) plane.

For these reasons, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Accordingly, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

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

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, certificated in all categories. To detect failure of the ram air turbine, accomplish the following, unless previously accomplished:

A. Prior to the later of the following:

1. 3,400 hours total time in service;

2. 24 months since installed, either new or overhauled; or

3. 120 days after the effective date of this AD; perform a functional test of the ram air turbine in accordance with the accomplishment instructions of Dowty Rotol Service Bulletins 29-101 dated January 4, 1979, and 29-72 dated April 12, 1976. Repeat the functional test at intervals not to exceed 600 hours time in service or 6 months, whichever occurs first.

B. If, as a result of the functional test of paragraph A., above, it is found that the ram air turbine does not meet the specifications, the affected unit must be replaced with a serviceable unit before further flight.

C. Termination of the requirements of this AD is accomplished by incorporation of the following two Dowty Rotol modifications: RM 401, described in Service Bulletin 29-104 dated January 24, 1979, and RM 370, described in Service Bulletin 29-76 dated November 18, 1976.

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

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD. This amendment becomes effective March 1, 1985.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington, on January 15, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2276 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ASW-1; Amdt. 39-4989]

Airworthiness Directives; Messerschmitt-Bolkow-Blohm, GmbH, Model BK 117A-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires installation of a revised V_{NE} placard reducing V_{NE} for certain portions of the approved altitude and temperature flight envelope. This AD is needed to prevent flight at high airspeeds where the helicopter has exhibited unstable static longitudinal control characteristics under certain ambient conditions. Unstable longitudinal control characteristics could result in possible loss of helicopter control.

DATES: Effective February 7, 1985.

Compliance required within the next 30 days after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Messerschmitt-Bolkow-Blohm, GmbH, Abt. Drehflugler, Postfach 801140, D-8000 Munchen 80, Federal Republic of Germany. A copy of the service bulletin is contained in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Larry F. Plaster, Aerospace Engineer, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Southwest Region, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 877-2579.

SUPPLEMENTARY INFORMATION: The FAA has determined that under certain combinations of gross weight, rotor speed, altitude, temperature, and airspeed within the presently approved operating envelope, the MBB Model BK 117A-1 helicopter exhibits static longitudinal control travel instability. This characteristic will substantially increase the pilot control workload when the appropriate combinations of parameters listed above are encountered and could possibly result in loss of control of the helicopter during high-speed flight. Since this condition is likely to exist on other helicopters of the same type design, an airworthiness directive is being issued which requires installation of a revised V_{NE} (airspeed) placard limiting V_{NE} to airspeeds below which the control instability does not occur on the MBB BK 117A-1 helicopter. Reducing the present V_{NE} airspeed limits for cold temperatures should prevent the control instability.

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

The FAA has determined that this regulation involves approximately 20 helicopters for a total cost of $120. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

Messerschmitt-Bolkow-Blohm, GmbH: Applies to all MBB Model BK 117A-1 helicopters certificated in all categories.

Compliance is required within 30 days after the effective date of this AD, unless already accomplished.

To prevent possible hazards in flight associated with static longitudinal control instability, accomplish the following:

(a) Apply new V_{NE} placard Part Number 117-740131.90 to the existing V_{NE} placard.

Note.—MBB-Helicopters Service Bulletin No. SB-MBB-BK 117-40-4 is applicable to this AD.

(b) Placard required by paragraph (a) may be installed by a pilot who makes the appropriate maintenance record entries required by FAR Parts 43 and 91.

(c) An equivalent method of compliance with this AD may be used when approved by the Manager, Brussels Aircraft Certification Office, c/o American Embassy, Brussels, Belgium, APO NY 09667.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1454(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.)

This amendment becomes effective February 7, 1985.

Issued in Fort Worth, Texas, on January 16, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-2275 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-25-AD; Amdt. 39-4985]

Airworthiness Directives; Boeing Model 737 Airplanes Equipped With Boeing Autopilot Accessory Units, Part Numbers 65-52812-201, -203, -206, -207, -210, -211, -214, and -216

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the Autopilot Accessory Units installed in certain Bowing Model 737 airplanes. This AD is necessary because certain automatic stabilizer trim runaway faults can result in sink rates at touch down that could result in structural damage to the airplane and injuries to its occupants.

DATES: Effective March 1, 1985.

Compliance required prior to July 31, 1985.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, Attention: R.C. Curtiss, Manager, Renton Division Airworthiness, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Holt, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the modification of Autopilot Accessory Units, part numbers 65-52812-201, -203, -206, -207, -210, -211, -214, and -216, was published in the **Federal Register** on May 21, 1984 (49 FR 21345). The comment period closed on July 6, 1984.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received. The ATA requested on behalf of one U.S. operator that the AD compliance period be extended 6 months to July 30, 1985, to accommodate modification by the manufacturer on a retrofit basis. The FAA has determined that such an extension could be accomplished without compromising safety and has revised the AD accordingly.

It is estimated that 13 airplanes of U.S. registry will be affected by this AD and that it will take approximately 6 manhours at $40 per manhour to complete the modifications. Based on these figures, cost of this AD is estimated to be $3,120.

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

For the reasons discussed above, the FAA has determined that this document is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified udner the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

Adoption of the Amendment

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

Boeing: Applies to all Boeing Model 737-200 series airplanes equipped with Boeing Autopilot Accessory Units, part numbers 65-52812-201, -203, -206, -207, -210, -211, -214, and -216 certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude the potential of a hard landing due to runaway stabilizer trim, accomplish the following:

A. Prior to July 31, 1985, modify the Autopilot Accessory Units listed above in accordance with Boeing Service Bulletin 737-22-1062 dated September 16, 1983.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, Seattle, Washington.

This amendment becomes effective March 1, 1985.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington, on January 15, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2277 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AAL-17]

Revocation of Farewell, AK, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Farewell, AK, control zone in order to allow more efficient use of that airspace. The requirements for a control zone at Farewell, AK, are no longer being met. Airspace action is being initiated to revise the Farewell, AK, transition area to provide aircraft conducting flight under Instrument Flight Rules (IFR) with appropriate airspace when flight visibility is less than 3 miles.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

History

On October 30, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the Farewell, AK, control zone (49 FR 43559). The requirements for a control zone at Farewell, AK, are no longer being met.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will revoke the Farewell, AK, control zone. Revocation of the Farewell, AK, control zone will reduce the constraints/impact on the public in the affected airspace and will allow more efficient use of this airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Farewell, AK—[Removed]

Within a 5-mile radius of the Farewell Airport (lat. 62°30'30" N., long. 153°52'30" W.); and within 3.5 miles each side of the 306° bearing from the Farewell RBN extending from the 5-mile radius zone to 8.5 miles northwest of the RBN. This control zone is effective from 0745 to 1545 local time daily, or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication, Supplement Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1154(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Anchorage, Alaska, on January 17, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-2286 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ANM-29]

Establishment of Transition Area, Huntington, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action established a transition area at Huntington, Utah, to provide controlled airspace from 700' above the surface for aircraft executing an instrument approach procedure to Huntington Municipal Airport, Huntington, Utah.

EFFECTIVE DATE: 0901 GMT, April 11, 1985.

FOR FURTHER INFORMATION CONTACT: George Orr, Airspace & Procedures Specialist, ANM-531, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, The telephone number is (206) 431-2531.

SUPPLEMENTARY INFORMATION:

History

On November 20, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 (CFR Part 71) to establish a 700' transition area at Huntington, Utah (49 FR 45756).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a 700' transition area at Huntington, Utah, to provide controlled airspace for aircraft executing an instrument approach procedure to Huntington Municipal Airport, Huntington, Utah.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition Areas, Aviation Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations 14 CFR Part 71) is amended, as follows:

Huntington, Utah—[New]

That airspace extending upward from 700 feet above the surface within 3 miles west and 5 miles east of the 210° radial of Carbon VOR. (Lat. 39°36'11.6" N., Long. 110°45' 10.1" W.) extending from 10 miles south to 24 miles south of the VOR; that airspace extending upward from 1200 feet above the surface within 8 miles west and 8 miles east of the 210° radial of the Carbon VOR extending from 5 miles south to 24 miles south of the VOR, excluding the portion within the Price, Utah, 1200 foot transition area, and the portion that overlaps V208.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Seattle, Washington, on January 14, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2284 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 84-ASW-43]

Establishment of Temporary Restricted Areas; McGregor, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates temporary restricted areas in the vicinity of White Sands Missile Range, NM, and Fort Bliss, TX, to contain hazardous air activity associated with joint military exercise BORDER STAR 85. Applicable areas are included in the Continental Control Area. Unauthorized flight operations by nonparticipating aircraft are prohibited within the restricted areas during their designated times of use.

EFFECTIVE DATE: 0601 GMT, March 24, 1985.

FOR FURTHER INFORMATION CONTACT: Brent A. Fernald, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On October 24, 1984, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to establish temporary Restricted Areas identified as R-5103E through J, McGregor, MN, to contain hazardous air activity associated with joint military readiness exercise BORDER STAR 85 during the period March 24 through 31, 1985 (49 FR 42740). This exercise will provide necessary training for several military commands operating under the sponsorship of the U.S. Readiness Command. The air activities associated with the exercise will be such that simultaneous flight by nonparticipating aircraft cannot be safely conducted within the temporary restricted areas when in use by the military. These activities will consist of military helicopters and high-performace aircraft conducting close air support, interdiction, offensive and defensive counter air, electronic warfare, reconnaissance, tactical airlift missions, aerial refueling, and airborne command and control missions. The total daily sorties are estimated at between 181 and 261, of which 19 may be at night. Exercise aircraft will remain clear of VFR nonparticipating aircraft outside exercise restricted airspace. Appropriate altitude separation will be used to provide clearance from IFR nonparticipating aircraft. The exercise does not limit or infringe on existing civil airport traffic areas underlying the exercise airspace. Airways of New Mexico, Inc., will be assured use of the VFR corridor between Alamogordo and El Paso. The boundary abutments to existing special use airspace areas are necessary to accommodate interarea transition into and out of adjacent areas that will also be used extensively during the exercise. During periods of nonuse, the airspace will be turned over to the FAA controlling facility; R- 5107B will be turned over to the White Sands Missile Range. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The V-280 exclusion within R-5103E and F, as proposed in the notice, has been cancelled to allow utilization of this airway when the restricted airspace is turned over to the FAA, and for authorized transit at other times when military activity permits. Except for the above change, these amendments are the same as those proposed in the notice. Section 71.151 of Part 71 and § 73.51 of Part 73 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted areas identified as R-5103E, R-5103F, R-5103G, R-5103H, R-5103I and R-5103J McGregor, NM, to contain hazardous air activity associated with a major joint military services exercise during the period March 24 through 31, 1985. Applicable areas are included in the Continental Control Area. The temporary restricted areas are designated as joint use to permit utilization of the airspace by the controlling agency for authorized transit by nonparticipating VFR and IFR traffic when military activity permits. The military will provide reasonable access to private or public use land within the temporary restricted areas. Communications equipment will be installed and maintained between appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise areas (except R-5107B) on a noninterference basis. Additionally, reverse charge local telephone numbers will be established and published for general aviation traffic coordination. The Department of the Air Force will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). This action prohibits unauthorized flight operations by nonparticipating aircraft within the restricted areas during their designated times of use.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List Of Subjects In 14 CFR Part 71 and 73

Continental control area and restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.151 and § 73.51 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) and amended, as follows:

§ 71.151

The following are added effective 0001 March 24 through 2300 local time March 31, 1985.

R-5103E McGregor, NM
R-5103F McGregor, NM
R-5103G McGregor, NM
R-5103H McGregor, NM
R-5103I McGregor, NM
R-5103J McGregor, NM

§ 73.51

R-5103E McGregor, NM—[New]

Boundaries. Beginning at lat. 32°00'15" N., long. 105°56'40" W.; to 32°26'20" N., long. 105°30'00" W.; to 32°16'00" N., long. 105°30'00" W.; to 32°06'00" N., long. 105°39'00" W.; to the point of beginning.

Designated altitudes. 100 feet AGL to 8,000 feet MSL.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

R-5103F McGregor, NM—[New]

Boundaries. Beginning at lat. 32°03'30" N., long. 105°53'50" W.; to lat. 32°28'20" N., long. 105°30'00" W.; to lat. 32°18'00" N., long. 105°30'00" W.; to lat. 32°06'00" N., long. 105°39'00" W.; to lat. 32°02'40" N., long. 105°49'40" W.; to the point of beginning.

Designated altitudes. 15,000 feet MSL to unlimited.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

R-5103G McGregor, NM—[New]

Boundaries. Beginning at lat. 32°04'00" N., long. 106°17'00" W.; to lat. 32°06'00" N., long. 106°15'30" W.; to lat. 32°05'20" N., long. 106°09'20" W.; to lat. 32°00'30" N., long. 106°10'25" W.; to the point of beginning.

Designated altitudes. 100 feet AGL up to but not including FL 180.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

R-5103H McGregor, NM—[New]

Boundaries. Beginning at lat. 32°05'00" N., long. 106°18'20" W.; to lat. 32°25'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°00'00" W.; to lat. 32°27'40" N., long. 106°00'00" W.; to lat. 32°28'00" N., long. 106°02'00" W.; thence along the Southern Pacific Railroad to lat. 32°04'00" N., long. 106°17'00" W.; to the point of beginning.

Designated altitudes. 100 feet AGL to 6,000 feet MSL.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

R-5103I McGregor, NM—[New]

Boundaries. Beginning at lat. 32°05'00" N., long. 106°18'20" W.; to lat. 32°25'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°06'00" W.; to lat. 32°36'00" N., long. 106°00'00" W.; to lat. 32°27'40" N., long. 106°00'00" W.; to lat. 32°28'00" N., long. 106°02'00" W.; thence along the Southern Pacific Railroad to lat. 32°04'00" N., long. 106°17'00" W.; to the point of beginning.

Designated altitudes. 12,000 feet MSL to unlimited.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

R-5103J McGregor, NM—[New]

Boundaries. Beginning at lat. 32°45'00" N., long. 105°52'20" W.; to lat. 32°33'20" N., long. 105°30'00" W.; to lat. 32°45'00" N., long. 105°27'00" W.; to the point of beginning.

Designated altitudes. 24,000 feet MSL to unlimited.

Time of designation. 0001 March 24 through 2300 local time March 31, 1985.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, VA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; [49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)]; and 14 CFR 11.69)

Issued in Washington, D.C., on January 23, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-2281 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 84-ASO-30]

Alteration of Restricted Areas R-2104 A, B, C and R-3003

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the controlling agency for Restricted Areas R-210 A, B and C and R-3003 from the Memphis, TN, and Jacksonville, FL, Air Route Traffic Control Centers (ARTCC) to the Atlanta, GA, ARTCC. This action is necessary due to the recent realignment of the airspace boundaries of each of these facilities. The amendment does not alter the boundaries or hours of operation of the restricted areas.

EFFECTIVE DATE: 0901 GMT, February 14, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

As a result of airspace boundary changes affecting the Jacksonville, FL; Memphis, TN, and Atlanta, GA, ARTCC's restricted Areas R-2104 A, B, and C and R-3003 are now within the airspace assigned to the Atlanta ARTCC.

Accordingly, Atlanta ARTCC is the appropriate controlling agency for these restricted areas. The current descriptions of R-2104 A, B and C and R-3003 show the Memphis and Jacksonville ARTCC's, respectively, as the controlling agency for those areas. This amendment revises those descriptions to reflect the change of the controlling agency to Atlanta ARTCC. Inasmuch as this amendment changes only the name of the controlling agency of these restricted areas and does not alter the boundaries or operating hours of the affected areas, I find that notice and public procedure under 5 U.S.C. 553(b) is impracticable. Because it is necessary for pilots to be aware of the controlling agency for each restricted area, as a matter of flight safety, I find that good cause exists for making this amendment effective in less than 30 days if required to meet the next charting date. Sections 73.21 and 73.30 of Part 73 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the descriptions of Restricted Areas R-2104 A, B and C and R-3003 to indicate the controlling agency is now the Atlanta ARTCC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Restricted areas.

Adoption of the Amemdment

Accordingly, pursuant to the authority delegated to me, § 73.21 and § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) are amended, as follows:

§ 73.21

R-2104A Huntsville, AL—[Amended]

By removing the words "Memphis ARTCC and substituting the words "Atlanta ARTCC"

R-2104B Huntsville, AL-[Amended]

By removing the words "Memphis ARTCC" and substituting the words "Atlanta ARTCC"

R-2104C Huntsville, AL-[Amended]

By removing the words "Memphis ARTCC" and substituting the words "Atlanta ARTCC"

§ 73.30

R-3003 Fort Gordon, GA

By removing the words "Jacksonville ARTCC" and substituting the words "Atlanta ARTCC"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on January 23, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-2283 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 41159-4159]

Department of Commerce Seminars on Computers, Software and Related Equipment

AGENCY: Office of Export Administration, Commerce.

ACTION: Announcement of seminars to be held on final rule.

SUMMARY: On December 31, 1984, (49 FR 50608-50632) the Office of Export Administration (OEA) published new regulations on COCOM Review of the Commodity Control List; Electronics and Precision Instruments. OEA maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This new rule revised the List entry 1565 for electronic computers and related equipment, and added two new entries—1566, which controls software for computers and equipment described in Entry 1565, and 1567, which controls certain stored program controlled communication switching equipment.

These revisions resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availablity from abroad of strategic items to potential adversaries. Commerce determined, in consultation with the Departments of Defense and State, that these revisions to the CCL were necessary to protect U.S. national security interests.

OEA, in conjunction with the Association of Data Processing Service Organizations (ADAPSO) and the Computer & Business Equipment Manufacturers Association (CBEMA), has arranged for a series of one-day educational seminars to review and explain the new regulations and controls on these exports.

DATES: Seminar dates and locations are as follows:

February 22, Washington, DC
February 25, Boston, MA
February 27, San Francisco, CA
March 1, Dallas, TX

ADDRESSES: For further details on seminar locations, please contact Tom Farewell at (703) 522-5055.

FOR FURTHER INFORMATION CONTACT: Betty Ferrell, Exporter Services Division, Office of Export Administration (202) 377-3856, or to register for a seminar, please call Tom Farewell, Association of Data Processing Service Organizations (703) 522-5055.

SUPPLEMENTARY INFORMATION: The program schedule for each seminar will be the same. The morning discussion will relate to new U.S. export controls for computer hardware and related equipment including an in-depth review and discussion of the computer system parameter application form ITA-6031P, as well as a question and answer period. The afternoon discussions will relate to the U.S. multilateral controls affecting computer software and telecommunications switching equipment exports, and will also include a question and answer period. Registration fee is $125.00.

Dated: January 25, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-2048 Filed 1-30-85; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9179]

The City of New Orleans, Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commisison.

ACTION: Order withdrawing the Complaint.

SUMMARY: This Order withdraws the Commission Complaint alleging that the City of New Orleans violated section 5 of the FTCA by conspiring with taxicab operators to increase fares and limit the number of taxicab licenses, with the effect of eliminating competition. Following enactment of legislation by the State of Louisiana which provided that "[T]he policy of this state is to require that municipalities . . . regulate [taxicabs] and not to subject municipalities or municipal officers to liability under federal laws" and which specifically empowers cities to regulate entry and control fares for taxicabs, the Commission determined that continuing this matter would not presently serve the public interest.

DATES: Complaint issued on May 10, 1984; Order issued on January 3, 1985.*

FOR FURTHER INFORMATION CONTACT: Jerry A. Philpott, FTC/G-402-1, Washington, D.C. 20580, (202) 254-7051.

SUPPLEMENTARY INFORMATION: In the Matter of The City of New Orleans, a municipal corporation.

List of Subjects in 16 CFR Part 13

Taxicabs, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order

Commissioners: James C. Miller III, Chairman; Patricia P. Bailey, George W. Douglas, Terry Calvani, and Mary L. Azcuenaga.

In the matter of the City of New Orleans, a municipal corporation (Docket No. 9179).

Complaint counsel have moved for withdrawal of the complaint in this matter, on the ground that state legislation enacted after the complaint was issued makes effective relief impossible. The Administrative Law Judge has certified that motion to the Commission. The complaint alleges that the City of New Orleans has combined, contracted or agreed with taxicab companies in a number of respects relating to fare increases, fare uniformity, limitations on the number of certificates of public necessity and convenience issued, and barriers to entry, in violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

After the complaint was issued, the State of Louisiana enacted a statute that provides:

> [T]he policy of this state is to require that municipalities . . . regulate [taxicabs] and not to subject municipalities or municipal officers to liability under federal antitrust laws.[1]

*Copies of the Complaint filed with the original documents.

[1] Act of June 6, 1984, No. 518 (to be codified at LA. REV. STAT. ANN. § 33:4792 A(e)).

The statute also specifically empowers cities to regulate entry and control fares for taxicabs.[2] After careful consideration, the Commission has determined that continuing this matter would not presently serve the public interest.[3] We have therefore concluded that the complaint in this matter should be withdrawn. In taking this action, we express no opinion as to whether the liability of the City of New Orleans could have been established at trial, or whether an independent judicial proceeding might establish that federal statutes embodying the national policy of competition preempt the new Louisiana statute. We also express no opinion as to the merits of the complaint issued against the City of Minneapolis in Docket No. 9180.

Accordingly, it is ordered that the complaint issued against the City of New Orleans in Docket No. 9179 be, and it hereby is, withdrawn.

By direction of the Commission.

Issued: January 3, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-2318 Filed 1-29-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3149]

Charles E. Weller; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this Consent Order, among other things, requires Charles E. Weller to cease misrepresenting the value or potential value of oil and gas right or other investments offered; the degree of risk involved in such investments; or the value or potential for increase in value of any mineral right or other investment offering. Mr. Weller is also required to substantiate any representation or claim concerning the value or potential earnings of any investment; make prescribed disclosures in sales brochures and oral sales presentations advising consumers that oil and gas lease rights are high risk investments; and place $60,000 into an escrow account to be used for consumer redress.

DATE: Complaint and Order issued December 24, 1984.*

FOR FURTHER INFORMATION CONTACT: Arthur B. Cornell, FTC/H-276, Washington, D.C. 20580, (202) 523-3798.

SUPPLEMENTARY INFORMATION: On Thursday, August 9, 1984, there was published in the **Federal Register**, 49 FR 31903, a proposed consent agreement with analysis In the Matter of Charles E. Weller, individually and as a former officer of Alaska Land Leasing, Inc., and Federal Lease Filing Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its modified order to cease and desist, as set forth below.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.60 Earnings and profits; § 13.90 History of product or offering; § 13.143 Opportunities; § 13.195 Safety; § 13.195-30 Investment; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.285 Value. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-47 Restitution. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1615 Earnings and profits; § 13.1650 History of product; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1775 Value. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of product; § 13.1889 Risk of loss; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Oil and gas rights, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

*Copies of the Complaint filed with the original documents.

Before Federal Trade Commission

[Docket No. C-3149]

Decision and Order

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary Azcuenaga.

In the matter of Charles E. Weller, individually and as former officer of Alaska Land Leasing, Inc. and Federal Lease Filing Corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, his attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the facts as alleged in the complaint are true or that any law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person pursuant to § 2.34 of its Rules, and having thereafter accepted a notification to the consent agreement, approved by respondent and counsel for the Commission, which permits the Commission to transfer funds paid by respondent for redress purposes to the receiver appointed in the Commission's related federal district court action to be disbursed appropriately by the receiver under court supervision, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues it complaint, makes the following jurisdictional findings and enters the following order:

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[2] *Id.* §§ B(1), (2).

[3] *See Community Communications Co.* v. *City of Boulder*, 455 U.S. 40, 55-56 (1982); *California Retail Liquor Dealers Association* v. *Midcal Aluminum, Inc.*, 445 U.S. 97, 105 (1980); *New Motor Vehicle Board of California* v. *Orrin W. Fox Co.*, 439 U.S. 96, 109 (1978); *City of Lafayette* v. *Louisiana Power & Light Co.*, 435 U.S. 389, 410 (1978).

1. Respondent Charles E. Weller was, until April 1983, a Director and President of Alaska Land Leasing, Incorporated, an Alaska corporation with its principal office then located at 28990 Pacific Coast Highway, Malibu, California 90265. He was also executive vice president and general counsel of Federal Lease Filing Corporation, a California corporation with its principal office located at 28990 Pacific Coast Highway, Malibu, California 90265, until April 1983.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Order

I.

It is hereby ordered that respondent Charles E. Weller, his successors and assigns, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or promotion of any mineral right, including any oil and gas lease right, or other investment offering in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting, directly or by implication,

(a) The value, or potential for increase in value, of any mineral right or other investment offering, including, but not limited to, the potential for oil or gas discovery or production on any property, the proximity of any property to a proven oil or gas reserve, the geologic structure of any property, or the existence of, or access to, any pipeline to transport oil or gas from any property;

(b) The past or likely future success of anyone in realizing profits, obtaining income, or gaining anything of value from any mineral right or other investment offering, including, but not limited to, the resale value of any oil and gas lease right or the royalty income from any oil and gas lease right;

(c) The degree of risk in any investment offering or in the acquisition of any mineral right;

(d) The findings, conclusions or substance of any report, analysis, recommendation or other advice by defendant or anyone else, including a geologist, concerning the geologic potential, value or potential for increase in value of any mineral right or other investment offering;

(e) Any purchase, offer to purchase or bid by anyone, including an oil company, for any mineral right or other investment offering;

(f) Any mineral exploration, discovery or production, including drilling, on any property or the production status of any dry, capped, suspended or abandoned oil or gas well;

(2) Representing, directly or by implication, the value or potential for increase in value of any mineral right or other investment offering either by reference to any land or fixtures thereon, by reference to any earnings, profits or income anyone has made or may make, or by any other reference, or representing, directly or by implication, any other of the matters referred to in part (1)(a)–(f) above, unless at the time such representation is made respondent or his successors and assigns posses and rely upon competent and reliable evidence that substantiates the representation.

(3) Failing to disclose clearly and conspicuously (as set forth below) in every sales brochure given or shown to any prospective purchaser (other than one of the top 200 oil and gas producing companies as ranked by total assets in the then current U.S.A. Oil Industry Directory published by the PennWell Publishing Company of Tulsa, Oklahoma) of any mineral right or other investment offering statements (a)–(e) below, and failing to disclose clearly and conspicuously (as set forth below) in every sales contract and sales or service agreement given or shown to any of those prospective purchasers statements (a)–(f) below:

(a) "The [partnerships in (where applicable)] oil and gas leases we offer are extremely speculative and very high risk investments. Do not invest unless you can afford and are prepared to lose all the money invested."

(b) When any geologist has reported to respondent that respondent's lease property or the area in which that lease property is located has little or no potential for oil or gas reserves,

"(A) [g]eologist(s) report(s) to us that this area has little or no potential to contain oil or gas. A copy of (all) the geologist report(s) on this area is (are) available upon request."

(c) When offering lease rights to 640 or fewer contiguous acres of property that contain no proven oil or gas reserves,

"Even if oil or gas were located on our lease property, a lease property size in this area of 640 of fewer acres will make it unlikely that oil or gas drilling will occur."

(d) When making any reference to oil company ownership of, bidding for or attempts to purchase leases to property that is nearby, or in the same leasing block as, respondent's lease property,

"Oil company ownership of or attempts to acquire other leases in this area don't mean that oil or gas is likely to be found on or anywhere near our lease property. In fact, no oil company attempted to acquire the lease(s) we're offering to you" (when such is the case).

(e) When making any reference to any oil or gas discovery, production or exploration on property that is nearby or in the same leasing block as respondent's lease property,

"Oil or gas found nearby, or in the same leasing block as, our lease property doesn't assure that oil or gas is located on our lease property. The likelihood of reserves depends on geologic structure, which can be different even for adjoining areas."

(f) "This agreement [or contract] shall not be deemed valid or complete unless the customer has signed and dated the required declaration of understanding printed herein."

The statements required above shall be disclosed in sales or service agreements and sales contracts in print at least as large as the capitalized corporate name within the text of the contract or agreement, but in no event smaller than 10 point type. Such statement shall be printed in 100% black ink against a white background, and boxed. The copy of the foregoing statements included on each sales or service agreement or sales contract shall also include a signature line for the customer preceded by a declaration that the customer has read and understands the statement. The statement required by part 3(a) above shall also be disclosed, in the size and format described above, on the front cover of every sales brochure. The statements required by parts 3(b)–(e) shall be disclosed in sales brochures in the same size and format described above on the first page of the brochure.

(4) Failing to disclose orally in every oral sales presentation given to any prospective purchaser (other than one of the top 200 oil and gas producing companies as ranked by total assets in the then current U.S.A. Oil Industry Directory published by the PennWell Publishing Company of Tulsa, Oklahoma) of any mineral right or other investment offering the statements required by parts (3)(a)–(e) above.

II.

It is further ordered that respondent Charles E. Weller shall deposit, no later than five (5) days after his attorney is served with a copy of a notice of the acceptance of the Consent Agreement containing this Order by the Commission pursuant to § 2.34(1) of its Rules of Practice, a certified check for $60,000 into an escrow account established and managed by the United

States Treasury for the Federal Trade Commission, such funds to be used for such consumer redress purposes as the Commission shall decide upon after final disposition of the action against Alaska Land Leasing, Incorporated and Federal Lease Filing Corporation and other officers, directors and salesmen of those corporations, *FTC* v. *Alaska Land Leading Inc.*, Civ. No. 84-5416 AWT(Px) (C.D. Cal., filed July 23, 1984); provided, however, that the Commission may transfer these funds to the receiver appointed in the above-mentioned federal district court action, such funds to be disbursed under court supervision pursuant to the Order Appointing a Permanent Receiver in that case, entered October 31, 1984.

It is further ordered that respondent shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the Order.

By the Commission. Commissioner Azcuenaga abstaining.

Issued: December 24, 1984.

Emily H. Rock,

Secretary.

[FR Doc. 85-2317 Filed 1-29-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81-19]

Natural Gas Pipeline Certificates

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 374.307(t), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits for projects relating to natural gas sales and transportation specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR, (202) 357-8500.

Order of the Director, OPRR

In the matter of publication of project cost limits under blanket certificates, Docket No. RM81-19.

Issued: January 23, 1985.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(t) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1985, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

List of subjects in 18 CFR Part 157

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 157—[AMENDED]

1. In § 157.208(d) table I is revised to read as follows:

§ 157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. project cost limit (col. 1)	Prior notice project cost limit (col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,600,000

2. In § 157.215(a) table II is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000

* * * * *

[FR Doc. 85-2158 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: February 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978; Docket No. RM79-14.

Issued: January 25, 1985.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and

pursuant to § 375.307(l) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of February 1985 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to February 1985 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director Office of Pipeline and Producer Regulation.

Table I.—Incremental Pricing Acquisition Cost Threshold Prices

CALENDAR YEAR 1984

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331	$2.338	$2.345	$2.352	$2.359	$2.366
NGPA Section 102 Threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA Section 109 Threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.436	2.444
130% of No. 2 Fuel Oil in New York City Threshold	7.730	7.570	7.570	6.550	6.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290

CALENDAR YEAR 1985

	Jan.	Feb.										
Incremental Pricing Threshold	$2.373	$2.378										
NGPA Section 102 Threshold	3.869	3.890										
NGPA Section 109 Threshold	2.452	2.457										
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.310										

[FR Doc. 85-2351 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 4H5415/R723; FRL-2767-1]

Tolerances for Pesticides in Food and Animal Feeds Administered by the Environmental Protection Agency; Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food and feed additive regulations for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer, and its metabolite in or on the food commodity raisins and the feed commodities raisin waste and dried grape pomace. These regulations to establish the maximum permissible levels for residues of the fungicide in or on these commodities was requested by Rhone-Poulenc, Inc.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections identified by the document control number [FAP 4H5415/R723] may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 23, 1983 (48 FR 52974), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted a food/feed additive petition 4H5415 to the Agency proposing to amend 21 CFR, Chapter I by establishing additive regulations for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the food commodity (21 CFR Part 193) raisins at 300 ppm and in or on the animal feed commodities (21 CFR Part 561) raisin waste at 1,000 ppm and dried grape pomace at 225 ppm.

Subsequently, EPA issued a notice, published in the **Federal Register** of June 6, 1984 (49 FR 23445), which announced that Rhone Poulenc Inc. had amended the petition by decreasing the proposed tolerance for raisin waste from 1,000 ppm to 300 ppm.

There was no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a final rule document, which established tolerances for iprodione in or on certain raw agricultural commodities, published in the **Federal Register** of Decmeber 5, 1984 (49 FR 47491).

The metabolism of iprodione is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes. The pesticide is considered useful for the purpose for which the regulations are sought, and it is concluded that the fungicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) ef. seq.). Therefore, the additive regulations are established as set forth below.

Any person adversely affected by these regulations may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported

by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Feed additives, Pesticides and pets.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs

PART 193—[AMENDED]

Therefore 21 CFR, Chapter I, is amended as follows:

1. In Part 193, a new § 193.253, is added to read as follows:

§ 193.253 Iprodione.

Tolerances are established for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methyl-ethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on the following food commodity:

Foods	Parts per million
Raisins	300

PART 561—[AMENDED]

2. In Part 561 by adding a new § 561.263 to read as follows:

§ 561.263 Iprodione.

Tolerances are established for combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methyl-ethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the following feed commodities:

Feed	Parts per million
Raisin waste	300
Grape pomace, dry	225

[FR Doc. 85-2429 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address; Elanco Products Co.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of address for Elanco Products Co.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Borders, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Elanco Products Co., A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, has informed FDA of a change of address. This change of sponsor address does not involve any changes in the manufacturing of the drug products or safety and effectiveness data of the approved NADA's involved. The agency is amending the regulations to reflect the change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

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 Center for Veterinary Medicine (21 CFR 5.83), § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the entry for "Elanco Products Co." in paragraph (c)(1) and in the entry for "000986" in paragraph (c)(2) by changing the sponsor's address to read "Lilly Corporate Center, Indianapolis, IN 46285."

Effective date. January 30, 1985.

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

Dated: January 23, 1985.

Marvin A. Norcross,

Acting Associate Director, for Scientific Evaluation.

[FR Doc. 85-2299 Filed 1-29-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address; Nylos Trading Co., Inc.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of address for Nylos Trading Co., Inc.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Borders, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Nylos Trading Co., Inc., P.O. Box 2, Route 202, Pomona, Ny 10970, has informed FDA of a change of address. This change of sponsor address does not involve any changes in the manufacturing of the drug products or safety and effectiveness data of the approved NADA's involved. The agency is amending the regulations to reflect the change.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (212 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the entry for "Nylos Trading Co., Inc." in paragraph (c)(1) and in the entry for "027454" in paragraph (c)(2) by changing the entry

for the sponsor's address to read "P.O. Box 2, Route 202, Pomona, NY 10970."

Effective date. January 30, 1985.

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

Dated: January 23, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-2300 Filed 1-29-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Asssistant Secretary of Housing—Federal Housing Commissioner

24 CFR Parts 215, 236 and 886

[Docket No. R-85-1163; FR-1702]

Definition of Income, Rents and Recertification of Family Income for the Rent Supplement and Section 236 Programs; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule published on Monday, July 23, 1984 (49 FR 29580). The action is necessary to correct a mistake in the amendatory language and in the rule text for §§ 215.70 and 236.750.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 426-3944. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Accordingly, FR Doc. 84-19257, published on July 23, 1984 is corrected as follows:

1. Amendment 9 on page 29589, in the middle column, is corrected to read as follows:

§ 215.70 [Amended]

9. Section 215.70 is amended by removing paragraph (b) and by redesignation paragraph (c) as paragraph (b).

2. Amendment 21 on page 29594, in the first column, is corrected to read as follows:

§ 236.750 [Amended]

21. Section 236.750 is amended by removing paragraph (b) and by redesignating paragraph (c) as paragraph (b).

Dated: January 23, 1985.

Grady J. Norris,

Assistant General Counsel for Regulations, Department of Housing and Urban Development.

[FR Doc. 85-2413 Filed 1-29-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

29 CFR Part 26

Exemplary Rehabilitation Certificates For Ex-Servicemen

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Final rule; removal of regulations.

SUMMARY: The Department of Labor is issuing a final rule to remove the regulations found at 29 CFR Part 26 for the Exemplary Rehabilitation Program. The statute implemented by the regulations has been repealed.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Juarez, Telephone: (202) 523-9110.

SUPPLEMENTARY INFORMATION: Section 6 of Pub. L. 90-83 authorized the Secretary to award an Exemplary Rehabilitation Certificate for placement in the military personnel files, to any person discharged or dismissed under conditions other than honorable if the individual had since demonstrated a period of rehabilitation as well as good character traits, and good conduct in all activities and habits since discharge or dismissal. The Department of Labor issued regulations, at 29 CFR Part 26, implementing the statute. On October 14, 1982, the statute was repealed. Pub. L. 97-306, section 311, 96 Stat. 1442.

The Exemplary Rehabilitation Program regulations are primarily of historical value, and it is no longer necessary to continue their publication. Therefore, the Department of Labor is removing from Title 29, CFR, the regulations at Part 26.

Regulatory Impact

This document reflects the removal of regulations for which there is no longer any statutory authority. Therefore, it is not a rule or regulation as defined in E.O. 12291. In addition, this document was not preceded by a general notice of proposed rulemaking and, therefore, is not a rule as defined in the Regulatory Flexibility Act. 5 U.S.C. 601(2) and 604(a).

Catalog of Federal Domestic Assistance Number

This program was listed in the *Catalog of Federal Domestic Assistance* at 17.208.

Promulgation of Final Rule

Accordingly, Title 29, Code of Federal Regulations, is hereby amended by removing Part 26.

List of Subjects in 29 CFR Part 26

Employment, Veterans.

Authority: Sec. 311, Pub. L. 97-306, 96 Stat. 1442.

Signed at Washington, D.C. this 24th day of January, 1985.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 85-2353 Filed 1-29-85; 8:45 am]

BILLING CODE 4510-79-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-3000108A; FRL-2767-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Vinylpyrrolidone Styrene Copolymer; Pesticide Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts vinylpyrrolidone styrene copolymer from the requirement of a tolerance when used as an opacifier in pesticide formulations. This regulation was requested by GAF Corp.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 5, 1984 (49 FR 47509), which announced that GAF Corp., Wayne, NJ 07470, had requested

that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for vinylpyrrolidone-styrene copolymer when used as an opacifier in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
*	*	*
Vinylpyrrolidone-styrene copolymer (CAS Reg. No. 25086-29-7)	Not to exceed 2 percent of the formulation	Opacifier
*	*	*

* * * * *

[FR Doc. 85-2425 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300010GA, FRL 2767-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Camphor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts camphor from the requirement of a tolerance when used as a deodorant and melting point adjustment agent in pesticide formulations. This regulation was requested by W.R. Landis Associates, Inc.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of November 28, 1984 (49 FR 46788), which announced that W.R. Landis Associates, Inc., Valdosta, GA, had requested that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for camphor not exceeding 5 percent weight to weight (w/w) when used as a deodorant and melting point adjustment agent in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were not comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal **Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
*	*	*
Camphor (CAS Reg. No. 76-22-2)	Not more than 5% weight to weight (w/w) of pesticide formulations.	Deodorant, melting point adjustment.
*	*	*

* * * * *

[FR Doc. 85-2428 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F2999/R729; FRL-2767-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the crop grouping tree nuts. This regulation to establish maximum permissible levels for residues of chlorpyrifos in or on the commodity was requested pursuant to a petition submitted by the Dow Chemical Co.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 11, 1984 (49 FR 1422), which announced that the Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted pesticide petition 4F2999 to EPA proposing to amend 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6,-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity group tree nuts (almonds, beech nuts, brazil nuts, butternuts, cashews, chestnuts, chinquapins, filberts, hickory nuts, macadamia nuts, pecans, and walnuts) at 0.2 part per million (ppm). (The tolerance for chloropyrifos and its metabolite on almonds was raised to 0.2 ppm by an amendment published in the **Federal Register** of August 31, 1983 (48 FR 39455).)

There were no comments received in response to the notice of filing.

The toxicological data considered in support of the proposed tolerance include a 2-year rat feeding/oncogenicity study (core supplementary data) with a red-blood cell (RBC) cholinesterase (ChE) no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg)/day and negative for oncogenic effects at all levels tested (0.03, 0.1, 1.0, and 3.0 mg/kg); a 2-year dog feeding study (core supplementary data) with an RBC ChE NOEL of 0.01 mg/kg/day and a NOEL of 0.03 mg/kg/day (highest dose tested) for systemic effects; a voluntary human study with a ChE NOEL of 0.03 mg/kg/day (based on 20 days of exposure at this level); a 2-year mouse oncogenicity study (core supplementary data) which was negative for oncogenic effects at all levels tested (0.5 ppm, 5.0 ppm, and 15.0 ppm); a 3-generation rat reproduction study (core minimum data) with a NOEL for reproductive effects at 1.0 mg/kg/day (highest dose tested); a rat teratology study (core minimum data) which was negative for teratogenic effects at 0.1 mg/kg/day; and an acute delayed neurotoxicity study in the hen (core minimum data) which was negative at 100 mg/kg. The existing oncogenicity studies in two species and the chronic feeding studies in two species are not adequate for regulatory purposes (core supplementary data) and represent data gaps for the chemical.

The provisional acceptable daily intake (PADI), based on the human voluntary ChE study (ChE NOEL of 0.03 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.003 mg/kg of body weight/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.18 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.6322 mg/day; the current action will increase the TMRC by 0.0007 mg/day (0.11 percent) and will utilitze 0.40 percent of the PADI.

Although there are significant data gaps for the chemical, the proposed use will result in an insignificant increase (0.11 percent) in the TMRC to the human diet. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932), "the Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less."

The nature of the residue is adequately understood, and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Secondary residues in meat and milk of livestock would be adequately covered by the already established tolerances for these commodities. Because no poultry feed items are involved, there will be no problem of secondary residues in poultry tissue and eggs. There are no regulatory actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, it is concluded that the pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 406(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the following commodity, to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Tree nuts	0.2
* * * * *	

[FR Doc. 85-2418 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300107A; FRL-2767-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methyl Esters of Fatty Acids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts methyl esters of fatty acids derived from edible fats and oils from the requirement of a tolerance when used as a solvent, cosolvent in pesticide formulations. This regulation was requested by Stepan Co.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of November 28, 1984 (49 FR 46769), which announced that Stepan Co., Northfield, IL 60093, had requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for methyl esters of fatty acids derived from edible fats and oils when used as a solvent, cosolvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Methyl esters of fatty acids derived from edible fats and oils		Solvent, cosolvent
* * * * *		

* * * * *

[FR Doc. 85-2427 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300109A; FRL-2767-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N-Methylpyrrolidone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts *N*-methylpyrrolidone from the requirement of a tolerance when used as a solvent, cosolvent in pesticide formulations. This regulation was requested by GAF Corp. This regulation also removes a special exemption for *N*-methylpyrrolidone.

EFFECTIVE DATE: Effective on January 30, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 5, 1984 (49 FR 47508), which announced that GAF Corp., Wayne, NJ 07470, had requested that that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for *N*-methylpyrrolidone when used as a solvent, cosolvent in pesticide formulations.

Inert ingredients are ingredients that are not active ingredients as defined in

40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Since the Agency is giving exemption for *N*-methylpyrrolidone under 40 CFR 180.1001(d) (for growing crops only), the present special exemption for this chemical under 40 CFR 180.1047 is redundant and is being deleted.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. In § 180.1001(d) by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
N-methylpyrrolidone (CAS Reg. No. 120-94-5).	————	Solvent, cosolvent.
* * * * *		

* * * * *

§ 180.1047 [Removed]

2. Section 180.1047 *N-Methylpyrrolidone; exemption from the requirement of a tolerance* is removed.

[FR Doc. 85-2426 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-5-FRL-2766-8]

Hazardous Waste Management Program; Extensions of Application Deadline for Final Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extensions of Phase I Interim Authorization for Illinois, Indiana, Ohio, Wisconsin.

SUMMARY: EPA previously granted extensions of interim authorization until January 26, 1985, for the States of Illinois, Indiana, Ohio and Wisconsin. These States requested further extensions of interim authorization beyond their January 26, 1985, deadlines. These extensions would allow for continuation of their interim authorizations under the Resource Conservation and Recovery Act (RCRA), as amended. EPA is granting the requested extensions to avoid the reversion, on January 26, 1985, of their interim authorizations. This notice extends Phase I interim authorization for these States until January 31, 1986, or until the date these States receive final authorization, whichever occurs earlier.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Solid Waste Branch, Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Illinois 60604, Telephone (312) 353-8512.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the States in lieu of the Federal hazardous waste program. Two types of authorizations may be granted. The first type, known as "interim authorization" is a temporary authorization, which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (Section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260, 263, and 265 (universe of hazardous wastes, generator standards, transporter standards, and standards for interim status facilities); and Phase II, covering the EPA regultions in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II A covers general permitting procedures and technical standards for containers and tanks, and, in certain instances, for surface impoundments and waste piles as well. Phase II B covers incinerator facilities, and Phase II C addresses landfills and land treatment facilities.

The second type of authorization is a "final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other authorized State programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1-271.23.

40 CFR 271.122(c)(4) requires States which have received any, but not all, phases/components of interim authorization to have amended their original submissions by July 26, 1983, to include all components of Phase II. (See 47 FR 32377, July 26, 1982.) Further, 40 CFR 271.137(a) provides that interim authorization be automatically terminated (reverted) on July 26, 1983, unless the State had submitted an application for all phases/components of interim authorization by that date. (See 47 FR 32178, July 26, 1982.) Where the authorization (approval) of the State program reverts, EPA is to administer and enforce the Federal program in the State.

However, 40 CFR 271.137(a) also allows Regional Administrators to extend the July 26, 1983, deadline for good cause, so that a State program

would not unnecessarily revert to EPA. Regional Administrators could not, however, extend the deadline past January 26, 1985, as 40 CFR 271.122(b) provides that interim authorization of a State hazardous waste program must end 24 months from the effective date of the last component of Phase II. The last component of the Phase II regulations was published on July 26, 1982. It became effective on January 26, 1983; thus, interim authorization was to have ended on January 26, 1985. (See 47 FR 32365, July 26, 1982.)

The Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, Nov. 8, 1984), amended section 3006(c) to allow interim authorization to be further extended until January 31, 1986. Therefore, Regional Administrators have authority to extend a State's interim authorization until January 31, 1986, in appropriate cases.

Illinois

Illinois received Phase I interim authorization on May 17, 1982. The State subsequently has chosen to apply for final authorization rather than apply for additional increments of interim authorization. EPA granted Illinois' initial request of May 3, 1983, for an extension of interim authorization until January 16, 1985, based on the State's good faith effort to pursue statutory and regulatory amendments necessary to secure final authorization. This effort constituted "good cause" for extending the State's deadline for submission of its application for final authorization (see 48 FR 34036, July 27, 1983).

The State expected to submit its draft application in May 1984, which it did. However, in reviewing the draft application, EPA identified substantive regulatory issues that needed to be addressed through the adoption of regulatory amendments. In addition, statutory amendments may be required, pending an opinion by the State Attorney General. The State Attorney General's opinion is currently being delayed by a major policy issue regarding the matter of permitting, which has arisen as a result of a recent State Supreme Court decision.

Illinois has committed to submitting a complete application for final authorization, once the State Attorney General's opinion is received. Illinois expects to receive final authorization by January 31, 1986.

Indiana

Indiana received Phase I interim authorization on August 18, 1982. The State subsequently has chosen to apply for final authorization rather than apply for additional increments of interim authorization. EPA granted Indiana's initial request of June 21, 1983, for an extension of interim authorization until January 26, 1985, because the State had made a good faith effort to gain approval to increase staff size to operate a fully authorizable RCRA program. This effort constituted "good cause" for extending the State's deadline for submission of its application for final authorization. (See 48 FR 34036, July 27, 1983.)

Indiana expected to submit its application in September 1984; however, the State encountered significant delays in hiring the necessary staff. Much of this hiring has now been accomplished. Indiana now intends to submit a draft application in February 1985, and its official application by July 1985. Indiana expects to receive final authorization by January 31, 1986.

Ohio

Ohio received Phase I interim authorization on July 15, 1983. The State subsequently has chosen to apply for final authorization rather than apply for additional increments of interim authorization. EPA granted Ohio's initial request of June 17, 1983, for an extension of interim authorization until January 26, 1985, based on the State's good-faith efforts to pursue statutory and regulatory amendments necessary to secure final authorization. This effort constituted "good cause" for extending the State's deadline for submission of its application for final authorization (see 48 FR 34036, July 27, 1983).

Ohio expected to submit its application in May 1984; however, the State subsequently encountered lengthy delays in the sensitive negotiation of amendments to the State hazardous waste statute. The State statute was amended in June 1984, and permitting and land disposal regulations have subsequently been adopted, as well. Several other regulatory amendments will be adopted by the State prior to submission of its final application, based on EPA comments. Ohio submitted a draft application on January 11, 1985; the State intends to submit its final application in May 1985. Ohio expects to receive final authorization by November 30, 1985.

Wisconsin

Wisconsin received Phase I interim authorization on January 15, 1982. The State subsequently has chosen to apply for final authorization rather than apply for additional increments of interim authorization. EPA granted Wisconsin's initial request of May 23, 1983, for an extension of interim authorization until January 26, 1985, because the State had made a good-faith effort to pursue statutory and regulatory amendments necessary to secure final authorization. This effort constituted "good cause" for extending the State's deadline for submission of its application for final authorization (See 48 FR 34036, July 27, 1983).

Wisconsin expected to submit its application in June 1984; however, the State encountered further delays in adopting the necessary amendments. Wisconsin now intends to submit its official application in July 1985, after submitting a draft application in January 1985. Wisconsin expects to receive final authorization by January 31, 1986.

Decision

In consideration of the above schedules and the continued good-faith efforts of Illinois, Indiana, Ohio and Wisconsin to adopt hazardous waste programs necessary to obtain final authorization, I have determined that the immediate reversion of these State programs because of their failure to meet the original January 26, 1985, deadline is not in the best interest of Illinois, Indiana, Ohio, Wisconsin, this Agency, the regulated community, or the citizens of Illinois, Indiana, Ohio or Wisconsin. In accordance with the authority granted to me by the Hazardous and Solid Waste Amendments of 1984, I have found good cause to extend the deadline for the final determination on the final authorization applications for Illinois, Indiana, Ohio and Wisconsin, until January 31, 1986. After that, if any of these States has not received final authorization, responsibility for implementing RCRA will revert to Federal control in that State.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3, 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 these States' programs, thereby eliminating duplicative requirements for handlers of hazardous waste in Illinois, Indiana, and Wisconsin. 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, Water pollution control, Water supply, Intergovernmental relations, Penalties, and 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 by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974, and as amended by section 3006(c) of the Hazardous and Solid Waste Amendments of 1984.

Dated: January 22, 1985.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 85-2322 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6584

[F-030968]

Alaska; Partial Revocation of Public Land Order No. 963

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 228.47 acres of land withdrawn for recreation and public purposes. This action classifies and makes the lands available for selection by the State of Alaska. The lands have been and remain closed to other types of surface entry, nonmetalliferous mining and mineral leasing.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jane Clawson, BLM Alaska State Office, 701 C Street, Box 70, Anchorage, Alaska 99513, (907) 271-3240.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by subsection 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Public Land Order No. 963, of May 10, 1954, which withdrew lands for recreation and other public purposes at Salchaket (Harding) Lake, Alaska are hereby revoked as to the following described lands:

Fairbanks Meridian

T. 6 S., R. 4 E.
Sec. 12, lots 4 and 5, and SE¼SE¼;
Sec. 13, NE¼NE¼.
T. 6 S., R. 5 E.
Sec. 7, lots 54 to 64, inclusive and E½SW¼SW¼;
Sec. 18, lot 1, and NE¼NW¼.

The areas described aggregate approximately 228.47 acres.

2. Subject to valid existing rights, under the provisions of subsection 17(d)(1) of ANCSA, the lands described in paragraph 1 of this order are hereby classified as suitable for selection by the State of Alaska. If otherwise available, these lands are hereby opened to selection under the provisions of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (72 Stat. 339, et seq.).

3. As provided in Subsection 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the lands described in paragraph 1 of this order for a period of ninety-one (91) days from the date of publication of this order. After that date, any of the lands described therein that were not selected by the State of Alaska will remain subject to the terms and conditions of Public Land Order No. 5186 of March 15, 1972, which withdrew the lands for study and classification under subsection 17(d)(1) of ANCSA.

Robert N. Broadbent,

Assistant Secretary of the Interior.

January 22, 1985.

[FR Doc. 85-2297 Filed 1-29-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-505; RM-4705]

FM Broadcast Station in Kingman, KS

AGENGY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 257A to Kingman, Kansas, as that community's first FM allocation, at the request of Vera L. Dunn.

EFFECTIVE DATE: March 25, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Sharpiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcasting stations. (Kingman, Kansas) (MM Docket No. 84-505; RM-4705).

Adopted: January 3, 1985.

Released January 17, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposd Rule Making*, 49 FR 24396, published June 13, 1984, seeking comments on the request of Vera L. Dunn ("petitioner") to have Channel 257A assigned to Kingman, Kansas, as that community's first FM channel. The channel can be assigned in compliance with our minimum distance separation and other technical requirements.

2. Our records reveal that no comments in support of, or opposition to, the proposal have been received. However, Senator Robert Dole attached a letter from James W. Dunn which indicates that Vera Dunn is interested in filing an application for a Kingman station. On the basis of the expressed interest, we shall assign Channel 257A to Kingman.

3. We believe the assignment of Channel 257A to Kingman, Kansas, to be in the public interest as it could provide that community with its first local FM service. Accordingly, pursuant to sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective March 25, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below to read as follows:

City	Channel No.
Kingman, KS	257A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division; Mass Media Bureau.

[FR Doc. 85-2393 Filed 1-29-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-497; RM-4404; RM-4524]

FM Broadcast Stations in Glen Arbor and Leland, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 240A to Glen Arbor, Michigan, and Channel 232A to Leland, Michigan, as each community's first FM service. This action was taken at the request of Midwest Radio Consultants, Inc. and James J. McCluskey, respectively.

EFFECTIVE DATE: March 26, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Glen Arbor and Leland,[1] Michigan) (MM Docket No. 83-497, RM-4404, RM-4524).

Adopted: January 7, 1985.
Released: January 18, 1985.

By the Chief, Policy and Rules Divisions.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 27575, published June 15, 1983, proposing the assignment of Channel 232A to Glen Arbor, Michigan, as its first FM broadcast service, in response to a petition filed by Midwest Radio Consultants, Inc. ("Midwest"). In response to the *Notice*, James J. McCluskey ("McCluskey"), licensee of WAAQ-FM, Big Rapids, Michigan, submitted a counterproposal to assign Channel 232A to Leland, Michigan.[2] Each petitioner filed supporting comments reaffirming an intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. McCluskey proposes channel 240A as an alternative assignment to Glen Arbor in order to permit the allocation of Channel 232A to Leland, Michigan. Midwest agrees with McCluskey's counterproposal. These assignments can be made in compliance with the minimum distance requirements.[3]

3. We believe the public interest would be served by the assignments of Channel 240A to Glen Arbor, Michigan, and Channel 232A to Leland, Michigan, providing a first FM service to each community. Both assignments can be made in compliance with the minimum distance separation reqirements of § 73.207 of the Commission's Rules. Since the communities are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence from the Canadian Government has been obtained.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is Ordered, That effective March 26, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Glen Arbor, MI	240A
Leland, MI	232A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

(Sec. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 54, 303)

Federal Communications Commission.

Charles Schott,
Chief, Policy and Rules Division.

[FR Doc. 85-2389 Filed 1-29-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-108; RM-4639]

FM Broadcast Station in Sault Ste. Marie, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 252A to Sault Ste. Marie, Michigan in response to a petition filed by David C. Schaberg, as that community's third local FM broadcast service.

EFFECTIVE DATE: March 26, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Sault Ste. Marie, Michigan) (MM Docket No. 84-108, RM-4639).

Adopted: January 2, 1985.
Released: January 18, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 5777, published February 15, 1984, in response to a petition filed by David C. Schaberg ("petitioner") proposing the assignment of FM Channel 252A to Sault Ste. Marie, Michigan, as that community's third local FM broadcast service. Petitioner was requested to state his intention to apply for the channel, if assigned, and has done so in his supporting comments. No oppositions to the proposal were received.

2. The Commission has obtained Canadian concurrence in the assignment of Channel 252A to Sault Ste. Marie, Michigan, since that community is located within 320 kilometers (200 miles) of the common U.S.-Canadian border. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. We believe, therefore, that the public interest would be served by the assignment of Channel 252A to Sault Ste. Marie since it could provide a third local FM broadcast service to that community.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c),(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 26, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

[1] This community has been added to the caption.

[2] *Public Notice* (Report No. 1413) of the counterproposal was given on June 30, 1983.

[3] The Glen Arbor assignment would infringe upon the 16 km buffer to Station WMBN-FM, Petosky, Michigan. The Leland assignment will not permit Station WCEN-FM and the vacant Manistique allocation to receive the buffer in the direction of Leland. Since these petitions were filed before the effectiveness of the action providing the buffer zone (*See Report and Order*, in BC Docket 80-90, 94 F.C.C. 2d 152 (1983), *recons.* 49 FR 10260, published March 30, 1984) the protection need not be given.

City	Channel No.
Sault Ste. Marie, MI	252A, 258, and 267.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–2391 Filed 1–29–85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84–628; RM–4716]

FM Broadcast Station in Ely, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 269A as a second FM channel to Ely, Nevada, in response to a petition filed by the Hansen Corporation.

EFFECTIVE DATE: March 25, 1985.

ADDRESS: Federal Communications Commission.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations, (Ely, Nevada) (MM Docket 84–628, RM–4716).

Adopted: January 2, 1985.

Released: January 17, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 F.R. 27329, published July 3, 1984, proposing the assignment of Channel 269A to Ely, Nevada, as that community's second FM broadcast channel. The *Notice* was adopted in response to a petition filed by Hansen Corporation ("petitioner"). Supporting comments were filed by the petitioner reaffirming its intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of Channel 269A to Ely, Nevada, in order to provide a second FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(l), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 25, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Ely, Nevada	224A, 269A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contract Montrose H. Tyree (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–2394 Filed 1–29–85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 82–754; RM–4200; RM–4250]

FM Broadcasts Hatch and Las Cruces, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 266 to Hatch, New Mexico, as that community's first local FM allocation, at the request of Albert T. and Christina Sanchez. A counterproposal requesting the assignment of Channel 258 to Las Cruces, New Mexico, as that community's third local FM allocation, filed by Domega Broadcasting Corp., is denied.

EFFECTIVE DATE: April 1, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), table of assignments, FM broadcast stations. (Hatch and Las Cruces[1], New Mexico) (MM Docket No. 82–754, RM–4200, RM–4250).

Adopted: January 2, 1985.

Released: January 22, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 47 FR 51597, published November 16, 1982, which proposed the assignment of FM Channel 258 to Hatch, New Mexico, as that community's first local FM assignment, at the request of Albert T. and Christina Sanchez ("Sanchez"). "Domega Broadcasting Corp. (Domega") filed a counterproposal requesting the assignment of Channel 258 to Las Cruces, New Mexico.[2] Since the communities are only 30 miles apart, instead of the required 180 miles for co-channel Class C assignments, the two requests are mutually exclusive.

2. Channel 258 can be assigned to Hatch without a site restriction. The assignment of Channel 258 to Las Cruces would require a site restriction of at least 29.2 miles northwest to avoid a short-spacing to Station KTSM(FM), Channel 260, El Paso, Texas.

3. Sanchez filed comments reiterating their intention to apply for the channel at Hatch, if assigned. Domega, in its counterproposal, states that its request is superior to the Hatch proposal. In this regard, it states that Las Cruces (population 45,086)[3] could receive its third commercial FM service, while the assignment at Hatch would provide service to a community of only 1,028 persons. Reply comments were filed by KGRT, Inc. ("KGRT"), licensee of Stations KGRT(AM) and KGRT-FM, Las Cruces. Based on an engineering study by its consulting engineer, KGRT states that using Domega's assumed site, line-of-sight service could not be provided to Las Cruces. KGRT claims that the result would be severe shadowing within the city limits. It further claims that, according to its study, if another site is used, a tower of approximately 2,000 feet above average terrain would have to be constructed. Not only would this tower be extremely costly to construct,

[1] This community has been added to the caption.

[2] Public Notice of the counterproposal was given on December 15, 1982, Rept. No. 1388.

[3] Population figures are taken from the 1980 U.S. Census.

but according to KGRT, the cost of constructing a road for use in transmitter maintenance and the importation of the necessary power to operate the transmitter would be "astronomical." Further, KGRT notes that the White Sands Testing Installation is located approximately twenty-five miles from Las Cruces and that a U.S. Air Force Base is located approximately fifteen miles from Las Cruces. Therefore, the construction of any tall tower might raise questions with the Federal Aviation Administration, without whose approval the tower could not be built. Therefore, in light of these problems, KGRT recommends that the assignment of Channel 258 at Las Cruces not be made.

4. Domega filed a response to the reply comments of KGRT, accompanied by a request that they be accepted, to which KGRT objected.* In its response, Domega reasserts its intention to apply for the channel, if assigned. It claims that according to its consulting engineer there remain a number of potential options to be explored that might allow shadow-free service to Las Cruces. It does admit that the reference point used in its petition was not investigated for terrain clearance but avers that there was no reason to do so as it claims that the Commission's practice in evaluating transmitter sites has usually been left to the application stage. It concludes that since KGRT did not investigate what it terms to be more typical sites and transmission paths that its objections are therefore invalid. As to the economics involved in constructing a facility, should Channel 258 be assigned to Las Cruces, Domega asserts that it is solely an entrepreneurial decision and that the Commission does not require any showing of financial ability nor any projection of profitability at the rule making stage.

5. We agree with Domega that KGRT's opposition based on the financial resources necessary to construct a station are premature. The issue of whether or not a broadcast facility assigned to any particular locality would be economically viable is not one which is generally decided at the rule making stage. Rather, the issue is more properly raised at the application stage. See, *e.g., Grand Junction, Colorado,* 26 R.R. 2d 513 (1973) and *Santa Barbara, California,* 49 FR 13370, published April 4, 1984. However, Domega has not presented us with any solid engineering showing that there is indeed a site available from which the requisite signal could be provided to Las Cruces. This issue is particularly appropriate for resolution at this stage since two communities are contesting the use of one frequency. To determine the coverage issue at the application stage would adversely affect institution of local service to Hatch. Based on our own engineering review, using a terrain map of the area, we find that the most likely location for a transmitter would be approximately 40 miles west of Las Cruces. This would in turn require a tower of at least 1350 feet in order to clear the intervening terrain obstructions. In order to provide city-grade service to a community, Class C facilities can usually be situated no further than 40 miles from the center of city coordinates. Where a transmitter needs to be placed at such a distance from the city, the Commission generally does not make the assignment absent a showing that a site is available which will clear all intervening obstructions and provide the community with a shadow-free signal of requisite strength. See, *e.g., Pinckneyville, Illinois,* 41 R.R. 2d 69, 71 (1977), where we stated:

> In making assignments, we require a reasonable assurance that a site meeting the applicable Commission requirements would be available. Ordinarily, there is no need to specify a particular site, it is only necessary to show that a suitable site area exists. However, in some instances, clarification may be necessary and an additional showing may be required before we can make the assignment.

we find that the statement of Domega that "there exists a number of potential options that remain to be explored from an engineering perspective that could allow Domega the ability of serving Las Cruces without the danger of shadowing" to be insufficient. No particular site, taking into account terrain considerations, has been explored and no specific showing attesting to the ability of an applicant to provide a clear line-of-sight service has been provided. Therefore, based on our own independent study and the lack of an adequate showing by Domega, we will not assign Channel 258 to Las Cruces at this time.

6. However, in order to avoid foreclosing the future possibility of a Las Cruces allocation on Channel 258, we have found that Channel 266 can be assigned to Hatch with a site restriction of 1.7 miles northwest. This restriction will avoid a short-spacing to Channel 264 in Ciudad Juarez, Chihuahua, Mexico, and the assignment of Channel 266 at Hatch will enable Domega or any other interested party the opportunity to request the use of Channel 258 as a Class A, C1 or C2 assignment at Las Cruces.

7. Mexican concurrence has been obtained for the assignment of Channel 266 to Hatch which is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

8. Accordingly, it is ordered, that effective April 1, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Hatch, NM	266

9. It is further ordered, that the counterproposal of Domega Broadcasting Corporation to assign Channel 258 to Las Cruces, New Mexico (RM-4250), is denied.

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

Charles Scholt,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-2385 Filed 1-29-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1138; RM-4508; RM-4734]

FM Broadcast Stations in Devils Lake and Fort Totten, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

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* Domega Broadcasting filed a response to the reply comments of KGRT, accompanied by a request for its acceptance. The Commission's rules do not contemplate the filing of a pleading after the record has closed. As discussed in paragraph 3, *infra,* KGRT, in reply comments, claims that site problems and other factors would make utilization of Channel 258 at Las Cruces highly unlikely, if not impossible. Domega's response to these reply comments provide further information as to the studies which it has conducted concerning site availability and the provision of service to Las Cruces. KGRT filed a Motion to Strike this unauthorized pleading stating that it has been served with a copy of these comments but that Domega has not shown any extraordinary circumstances which would justify our acceptance of this pleading. However, in this instance, we believe Domega has provided us with information explaining its engineering studies which we have found useful in deciding this case. Therefore, its further pleading has been accepted and considered herein.

SUMMARY: This action assigns Channel 244A to Devils Lake, North Dakota, in response to a petition filed by Harold A. Jahnke. The assignment could provide a third broadcast service to Devils Lake.

EFFECTIVE DATE: March 26, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Devils Lake and Fort Totten,[1] North Dakota) MM Docket No. 83–1138, RM–4508, RM–4734.

Adopted: January 7, 1985.

Released: January 18, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 51660, published November 10, 1983, proposing the assignment of Channel 244A to Devils Lake, North Dakota, as the community's third FM assignment, at the request of Harold A. Jahnke ("Jahnke"). In response to the *Notice*, the Devils Lake Sioux Tribe ("Sioux Tribe") filed a counterproposal, requesting the assignment of that channel to Fort Totten, North Dakota, as that community's first local FM channel. Both parties filed information in support of their requests and stated that they would apply for the channel, if assigned. Jahnke filed a Reply to the counterproposal stating that assignment of the channel to Fort Totten would preclude all applicants except the Sioux Tribe because the Tribal Council controls all business on the Reservation. He has also questioned the community status of Fort Totten and suggested the Sioux Tribe could use a noncommercial educational FM channel for their purpose.

2. A staff study was prepared showing that Channel 249A could be assigned to Fort Totten, North Dakota, with no site restrictions. However, on October 1, 1984, the Sioux Tribe withdrew its counterproposal.

3. Canadian concurrence has been received for the assignment of Channel 244A at Devils Lake, North Dakota.

4. We find that the assignment of Channel 244A at Devils Lake, North Dakota, is in the public interest, as it could provide a third FM service to that community. Therefore, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 26, 1985, the FM Table of Assignments, § 73.202(b) of the Rules, is amended to read as follows with respect to the community listed below:

City	Channel No.
Devils Lake, ND	244A, 273, and 278.

5. It is further ordered, that the counterproposal filed by the Devils Lake Sioux Tribe is dismissed.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

(Sec. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–2387 Filed 1–29–85; 8:45 am]

BILLING CODE 6712–01–M

[1] This community has been added to the caption.

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47 CFR Part 73

[MM Docket No. 84–8; RM–4620]

FM Broadcast Station in Bend, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Suzanne McLain, assigns Channel 252A to Bend, Oregon, as that community's fifth FM service.

EFFECTIVE DATE: March 25, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Bend, Oregon) MM Docket No. 84–8, RM–4620).

Adopted: January 2, 1985.

Released: January 17, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 49 FR 3224, published January 26, 1984, proposing the assignment of Channel 252A to Bend, Oregon, as that community's fifth FM assignment. The *Notice* was adopted in response to a petition filed by Charles Joseph Thompson ("petitioner").[1] Suzanne McClain submitted comments in which she expressed an intention in applying for the channel, if assigned.[2]

2. We believe that the public interest would be served by the assignment of Channel 252A to Bend, Oregon, as that community's fifth FM service. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 25, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Bend, OR	231, 248, 252A, 264, and 269.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–2390 Filed 1–29–85; 8:45 am]

BILLING CODE 6712–01–M

[1] Petitioner failed to submit comments in response to the *Notice*.

[2] McClain's comments were not timely filed but will be accepted for the purpose of permitting an expression of interest in the proposed channel.

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47 CFR Part 73

[MM Docket No. 84–294; RM–4599]

FM Broadcast Station in La Grande, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 261A to La Grande, Oregon, as that community's second FM allocation in response to a petition filed by Mark Masterson.

EFFECTIVE DATE: March 25, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (La Grande, Oregon) (MM Docket No. 84–294, RM–4599).

Adopted: January 7, 1985.

Released: January 17, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 15095, published April 17, 1984, proposing assignment of FM Channel 261A to La Grande, Oregon, as that community's second FM allocation. The *Notice* was adopted in response to a petition filed by Mark Masterson ("petitioner"). Supporting comments have been filed by petitioner reaffirming its intention to apply for the channel, if assigned.

2. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Rules. We believe that the public interest would be served by assigning FM Channel 261A to La Grande, Oregon, since it could provide that community with its second FM allocation.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 25, 1985, the FM Table of Assignments (§ 73.202(b)) of the Commission's Rules) is amended for the following community:

City	Channel No.
La Grande, Oregon	252A, 261A

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning the above, contact D. David Weston, Mass Media Bureau, (202) 634–6530.

Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division; Mass Media Bureau.

[FR Doc. 85–2392 Filed 1–29–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–97; RM–4428; RM–4881]

FM Broadcast Stations in Moscow, Idaho, and Pullman, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 291 to Moscow, Idaho, in response to a petition filed by KRPL, Inc. The assignment will provide Moscow, Idaho, with its first wide coverage area FM station.

EFFECTIVEDATE: March 4, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Second Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Moscow, Idaho and Pullman, Washington[1]) (MM Docket No. 83–97, RM–4428, RM–4881).

Adopted: January 2, 1985.

Released: January 16, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Further Notice of Proposed Rule Making*, 49 FR 11658, published March 28, 1984, proposing the substitution of Class C FM Channel 291 for Channel 280A at Moscow, Idaho. The *Further Notice* adopted in response to a counterproposal filed by KRPL, Inc. ("petitioner")[2] also proposes that petitioner's license for Station KRPL–FM, Moscow, Idaho, be modified to specify operation on the new channel. Petitioner has filed comments restating its intention to apply for the channel, if assigned. Radio Palouse, Inc. ("Radio Palouse") has filed a counterproposal requesting the substitution of a Class C for Channel 285A at Pullman, Washington, on which it is currently licensed.

2. In response to Radio Palouse's counterproposal, a staff study has determined that Channel 248 can be assigned to Pullman, Washington.[3] Thus, we will separately issue a *Second Further Notice of Proposed Rule Making* seeking comments on the proposed substitution of channels at Pullman, Washington. In so doing, we have not considered the comments of Radio Palouse expressing an interest in Channel 291 in Moscow, Idaho, should a Class C not be assigned to Pullman.

3. Channel 291 can be assigned to Moscow, Idaho, in compliance with the minimum distance separation requirements with a site restriction of 3.3 miles south of that community to avoid short-spacing to Canadian Channel 291B, Creston, British Columbia, and to Station KEZE(FM), Channel 289, Spokane, Washington. Canadian concurrence in the assignment has also been obtained. In view of the foregoing and the stated need for a wide coverage area FM station, the Commission believes that the public interest would be served by the assignment of Channel 291 to Moscow, Idaho. Since no other comments have been received expressing an interest in the use of the new channel, we are herein modifying the license of Station KRPL–FM to specify operation of Channel 291 in lieu of Channel 280A. See, *Cheyenne, Wyoming* 62 F.C.C. 2d 63 (1976); and *Modification of FM Station Licenses*, 49 FR 34007, published August 28, 1984.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 4, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, as follows:

[1] This community has been added to the caption.

[2] Petitioner initially filed its counterproposal in response to the *Notice of Proposed Rule Making*, 48 FR 8503, published March 28, 1983, which proposed the assignment of Channel 258 to Pullman, Washington. In that proceeding, petitioner requested the substitution of Channel 258 for Channel 280A at Moscow, Idaho. After a staff study indicated that another Class C channel (291) was available for assignment to Moscow, the Commission issued its *First Report and Order*, 49 FR 11639, published 3/27/84, assigning Channel 258 to Pullman and in a separation action issued its *Further Notice* considered herein.

[3] Radio Palouse suggested that to avoid the conflict with Moscow, Channel 282 could be substituted at Pullman. However, that channel would be short spaced to Channel 282 in Wallace, Idaho, for which an application is pending.

City	Channel No.
Moscow, ID	291

5. It is further ordered, that pursuant to § 316(a) of the Communications Act of 1934, as amended, the license of Station KRPL–FM, Moscow, Idaho, is modified to specify operation on Channel 291 subject to the following conditions:

(a) At least 30 days before operating on Channel 291 the licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules.

6. It is further ordered, that this proceeding is terminated.

7. For further information contact D. David Weston, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–2386 Filed 1–29–85; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

[Federal Acquisition Circular 84–5]

Federal Acquisition Regulation; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule implementing the Competition in Contracting Act of 1984 published in the **Federal Register** on Friday, January 11, 1985 (50 FR 1726).

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, Room 4041, GS Building, Washington, D.C. 20405, Telephone (202) 523–4755.

In FR Doc. 85–806 published Friday, January 11, 1985, make the following corrections:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

5.205 [Corrected]

1. On page 1729, in the first column, in 5.205(a), the reference is corrected to read "5.202".

2. On page 1729, in the second column, the third sentence in 5.207(b)(3) is corrected to read as follows:

5.207 Preparation and transmittal of synopses.

* * * * *

(b) * * *

(3) * * * The address shall include an attention phrase that identifies the person(s) to contact for further information, and for obtaining a copy of the solicitation, including title, code, and telephone number.* * *

3. On page 1731, in the third column, 6.302–1(b)(1) is corrected to read as follows:

6.302–1 Only one responsible source.

* * * * *

(b) * * *

(1) When there is a reasonable basis to conclude that the agency's minimum needs can only be satisfied by unique supplies or services available from only one source or only one supplier with unique capabilities.

* * * * *

4. On page 1734, in the second column, the second sentence in the introductory paragraph of 6.401 is corrected to read as follows:

6.401 Sealed bidding and competitive proposals.

* * * Contracting officers shall exercise good judgment in selecting the method of contracting that best meets the needs of the Government, and document the reasons if sealed bidding is not appropriate.

* * * * *

List of Subjects in 48 CFR Ch. 1

Government procurement.

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 85–2288 Filed 1–29–85; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Ch. 1

[Federal Acquisition Circular 84–5]

Federal Acquisition Regulation

Correction

In FR Doc. 85–806 beginning on page 1726 in the issue of Friday, January 11, 1985, make the following corrections:

Subpart 2.1—[Corrected]

1. On page 1727, in the middle column, in the paragraph designated "3.", in lines one through three, remove the words "by designating the existing text as 2.100 and"

2. The section heading "2.100 Definitions" appearing immediately below the paragraph designated "3." should be removed.

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1–22; Notice 13]

Vehicle Identification Numbers; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; correction.

SUMMARY: On May 19, 1983, the agency published an amendment to Standard No. 115, Vehicle identification number. The amendment exempted from certain of the vehicle identification number (VIN) requirements vehicles imported into the United States under bond which do not meet U.S. standards at the time of importation, but which subsequently will be modified to meet those standards. This notice corrects a typographical error in that amendment, in order to clarify the specific provisions from which such importers are exempted.

DATE: The correction made by this notice is effective January 30, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth Rutland, Office of Vehicle Safety Standards (NRM–11), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2154).

SUPPLEMENTARY INFORMATION: On May 19, 1983 (48 FR 22567), NHTSA published a rule amending Federal Motor Vehicle Safety Standard (FMVSS) No. 115, *Vehicle Identification Numbers*. That amendment, made in response to a petition filed by the Motor Vehicle Manufacturers Association, took certain portions of the existing FMVSS and placed those provisions in a separate agency regulation. This change was intended to remove the possibility that certain minor VIN errors regarding the format and content of the number would trigger the recall and remedy provisions of the National Traffic and Motor Vehicle Safety Act (which apply to violations of a FMVSS but not to violations of a general regulation). While the May amendment left the basic substantive VIN requirements unchanged, one substantive amendment was implemented in that notice. That amendment exempted from most VIN requirements vehicles which do not meet U.S. standards imported into the United States under bond (except by the actual manufacturer of the vehicle or a subsidiary thereof), but which will subsequently be modified to meet those standards. (These vehicles will be referred to herein as "bonded imports".) Bonded imports are still required to have a vehicle identification number assigned by the manufacturer and affixed to the vehicle in a specified location. (Volkswagen has filed a petition for reconsideration of the amendment, which is being reviewed by the agency.)

Due to a typographical error involving the omission of a clause and section numbering changes that occurred in the period between the agency's proposal and issuance of the final rule, there has been some confusion with regard to the precise scope of the bonded import exemption. This notice amends FMVSS 115 to make clear that bonded imports are exempt only from the standard's requirement that each VIN have 17 characters in a specified format and a check digit. Bonded imports must still have a unique VIN assigned by the assembling manufacturer which is permanently affixed to the vehicle, and is clearly legible. This notice also corrects the standard to specify that the exemption does not apply to an assembling manufacturer or its subsidiary. The preamble to the final rule explained that change, but it was not incorporated into the text of the standard.

The corrections to FMVSS 115 made in this notice will be effective immediately on publication in the **Federal Register**. The agency finds good cause for determining that notice and comment on this amendment are not necessary. Likewise, the agency finds good cause for an immediate effective date within the meaning of 5 U.S.C. 553(d) and finds that such an effective date is in the public interest within the meaning of 15 U.S.C. 1392(e). The basis for the findings of good cause is that the amendment corrects an obvious error in the rule as originally promulgated and should not adversely affect the ability of importers to comply with the standard.

Due to the essentially editorial nature of the corrections made in this notice, the agency concludes that those changes clearly will not have a significant effect on the quality of the human environment: That the rule does not qualify as a "major rule" within the meaning of Executive Order 12291; and that due to the absence of any cost impacts, the rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, the preparation of neither an environmental impact statement, a regulatory analysis, nor a full regulatory evaluation is necessary for this action. For the same reasons, I certify that this action will have no significant economic impact on a substantial number of small entities, including small organizations or governmental units. Accordingly, no Regulatory Flexibility Analysis has been prepared.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

For reasons stated above, in FR Doc. 83–13516 published May 19, 1983 (48 FR 22567), § 571.115 on page 48 FR 22571 is corrected as follows:

§ 571.115 [Corrected]

1. Paragraph S1 is corrected by removing the second sentence of that paragraph, which reads as follows: "Vehicles * * * standard."

2. Paragraph S2 is corrected by adding a new second sentence to read as follows:

Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii), other than by a corporation which was responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from the requirements of S4.2, S4.3, and S4.7 of this standard.

(Sec. 103, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50)

Issued on January 22, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85–2290 Filed 1–29–85; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Critical Habitat for the Fresno Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status and critical habitat for the Fresno kangaroo rat. This small, hopping mammal is restricted to the native grasslands of Fresno County in the San Joaquin Valley of California. From 1938 to April 1981, about 90 percent of the approximately 100,000 acres of these grasslands was destroyed by agricultural development. Just in the period of April to November 1981, 34 percent of the remaining habitat was eliminated, and the loss of additional areas appears imminent. Moreover, most of the native grasslands still in existence are being adversely modified through grazing by domestic livestock. Although there are still about 6,417 acres of potentially suitable habitat, a recent survey found only about 857 acres to be actually occupied by the kangaroo rat. This rule implements the protection of the Endangered Species Act of 1973, as amended, for the Fresno kangaroo rat.

DATES: The effective date of this rule is March 1, 1985.

ADDRESSES: The complete file for this rule is available for inspection during normal business hours, by appointment, at the Service's Regional Office, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The Fresno kangaroo rat (*Dipodomys nitratoides exilis*) is a small, hopping mammal found only in the San Joaquin Valley of central California. It was described by Merriam (1894) from specimens collected in 1891 at the town of Fresno in Fresno County. It is the

smallest of the kangaroo rats of California, having a head and body length of 211 to 267 millimeters (8¼ to 10½ inches) and a tail length of 120 to 162 millimeters (4¾ to 6¼ inches). In color, it is dark yellowish buff above and white below (Knapp, 1975). Like most other kangaroo rats, it dwells in burrows and eats seeds, which it carries about in its large cheek pouches. It appears to have been always restricted to the native alkali sink-open grassland plant community of western Fresno County. Its original range is not entirely known, but probably covered an area of about 250,000 acres, extending in the north to the San Joaquin River, in the east to the town of Fresno, in the south to the Kings River, and in the west to the Fresno Slough (Hoffman, 1974).

Shortly after its discovery in 1891, the Fresno kangaroo rat evidently became rare in response to agricultural development in its habitat, and for many years it was thought to be extinct. In 1933, however, it was rediscovered (Culbertson, 1934). A survey in 1938 indicated the presence of about 100,000 acres of native alkali sink vegetation within the original range of the kangaroo rat (Knapp, 1975). Because of the continued growth of agriculture and urbanization, the natural habitat declined to an estimated 15,000 acres by 1975 (Koos, 1979). An aerial survey in April 1981, located about 10,000 acres of apparently suitable habitat. By November 1981, however, much of this land had been converted to agriculture, leaving approximately 6,417 acres of potentially suitable habitat. Field studies in 1981–1982 found only about 857 acres, mostly State-owned, to actually be occupied by the kangaroo rat (Hoffman and Chesemore, 1982). Nearly all of the other remaining potential habitat has deteriorated badly because of heavy grazing by domestic livestock. Some of this habitat will probably be converted to agriculture in the near future, and all of it may be eliminated, unless conservation measures are implemented.

In the **Federal Register** of December 30, 1982 (47 FR 58454–58460), the Fresno kangaroo rat was included in category 1 of the Service's Review of Vertebrate Wildlife, meaning that there was substantial information on hand to support the biological appropriateness of a listing proposal. In the **Federal Register** of November 21, 1983 (48 FR 52608–52611), the Service published a proposed rule to determine endangered status and critical habitat for the Fresno kangaroo rat. In the **Federal Register** of February 9, 1984 (49 FR 4951), the Service issued a notice reopening the public comment period on the proposal for 30 days.

Summary of Comments and Recommendations

In the proposed rule of November 21, 1983, and associated notifications, all interested parties were requested to submit information that might contribute to the development of a final rule. Appropriate State and Federal agencies, county governments, scientific organizations, and other concerned parties were contacted and requested to comment. A newspaper notice, inviting public comment, was published in the *Los Angeles Times* on February 24, 1984.

Three comments were received. The California Department of Fish and Game supported the proposal, but recommended that about 4,800 acres of land be added to the designation of critical habitat. This land is not cultivated, has supported the Fresno kangaroo rat in the past, and may still do so. The Service cannot make this additional designation in this final rule. To do so would require a new public comment period on the additional lands and an expanded economic analysis pursuant to section 4(b)(2) of the Act. Those requirements would involve a considerable delay in covering the Fresno kangroo rat by the Act, and thus might place the survival of the species in greater jeopardy. The Service is thus proceeding at this time with a final rule to determine endangered status for the species and to determine the originally proposed areas as critical habitat, but will also issue a notice opening a new public comment period with respect to California's recommendation. Following this comment period, a final administrative decision will be made on whether to designate these additional lands as critical habitat.

A professional mammalogist suggested that the Service withhold a final rule, because there are questions about the taxonomic validity of the subspecies *Dipodomys nitratoides exilis*, and because the other two recognized subspecies of the species *D. nitratoides* (*D. n. brevinasus* and *D. n. nitratoides*, found to the west and south of *D. n. exilis*) might also warrant addition to the List of Endangered and Threatened Wildlife. The Service realizes that taxonomists often disagree about whether a particular population warrants a subspecific designation, but, in the present case, has chosen to follow the standard mammalogical reference for North America (Hall, 1981) and pertinent recent studies (Hafner, 1976; Hoffman, 1974), which indicate that *D. n. brevinasus*, *D. n. exilis*, and *D. n. nitratoides* are separate subspecies. The Service will attempt to gather data on *D. n. revinasus* and *D. n. nitratoides*, and, if appropriate, will issue a proposal to add these subspecies to the List of Endangered and Threatened Wildlife.

The Bureau of Reclamation stated that there is presently no conflict between its activities and the determination of critical habitat for the Fresno kangaroo rat. The construction of a canal is being considered near the involved area, but additional contacts with the Bureau indicated that construction has not yet been authorized and that the contemplated route is well to the west of the critical habitat area. The Bureau also suggested that privately owned land be excluded from the critical habitat area, while more State-owned land be added. Land ownership is one of many factors which must be considered when designating an area as critical habitat. Pursuant to section 4(b)(2) of the act, the Service may exclude an area from critical habitat if the benefits of such exclusion outweigh the benefits of inclusion, unless the failure to designate the area will result in extinction of the species. The Bureau did not show that the benefits of excluding the privately owned land outweigh the benefits of its inclusion. The Service did send notice of the proposal to private landowners in the area, but received no response.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Fresno kangaroo rat should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424, revised at 49 FR 38900, October 1, 1984) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Fresno kangaroo rat (*Dipodomys nitratoides exilis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The surival of the Fresno kangaroo rat is closely associated with conditions of soil and vegetation. Its requirements in this regard seem even more restrictive than those of most kangaroo rats. It must have a land surface with hummocks as sites for its extensive, but shallow burrow systems, and a substrate of suitable compactness to permit burrow

construction. A relatively dense growth of vegetation is required as cover for escape from predators and as a source of food. Conversion of an area of native vegetation for crop production completely eliminates the use of that area by the Fresno kangaroo rat. This animal, unlike some other rodents, is not known to utilize areas that have been cultivated or irrigated. As indicated in the "Background" above, however, nearly all of the original habitat of the kangaroo rat has been taken over by agriculture, and the process is continuing. Associated urbanization has also reduced the amount of native vegetation.

Of the remaining potential habitat of the kangaroo rat, most is being adversely affected by livestock grazing. Evidence indicates that such grazing has a substantial impact on both the distribution and population density of the kangaroo rat. The largest kangaroo rat populations are associated with the least grazing pressure (Koos, 1977). Mean population densities were found to be about 6.0 individuals per acre in an ungrazed area, but only about 2.5 per acre in a grazed area (Warner, 1976). Grazing may adversely influence kangaroo rat numbers by modifying vegetation structure, reducing escape cover, and decreasing food availability. The livestock may also directly damage the shallow burrows of the kangaroo rat (Koos, 1979).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem.

C. *Disease or predation.* Not known to be a problem at present, but could be potentially disastrous if the habitat of the kangaroo rat becomes excessively restricted.

D. *The inadequacy of existing regulatory mechanisms.* The California State Fish and Game Commission lists the Fresno kangaroo rat as endangered and, therefore, regulations are in effect that prohibit taking. The main problem of the kangaroo rat, however, is not direct taking, but habitat loss to agricultural development and grazing.

E. *Other natural or manmade factors affecting its continued existence.* Hoffman and Chesemore (1982) suggested that the combination of a drought in 1977 and possible competition with the Heermann's kangaroo rat (*Dipodomys heermanni*) may have caused the extirpation of the Fresno kangaroo rat in areas of marginal habitat.

The decision to determine endangered status for the Fresno kangaroo rat was based on an assessment of the best available scientific and commercial information and of past, present, and probable future threats to the species. Critical habitat is being determined because it would be prudent to do so and because the areas of habitat utilized by the species are generally well defined. A decision to take no action would exclude the Fresno kangaroo rat from needed protection pursuant to the Endangered Species Act. A decision to determine only threatened status would not adequately express the drastic distributional decline of the species and the continued threats posed to the remaining populations. Therefore, no action or listing as threatened would be contrary to the purposes and policies of the Act and the listing criteria in section 4(a).

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that "critical habitat" be designated, "to the maximum extent prudent and determinable," concurrent with the determination that a species is endangered or threatened. Critical habitat, as defined by section 3 of the Act and at 50 CFR Part 424, means (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination that such areas are essential for the conservation of the species.

The critical habitat of the Fresno kangaroo rat comprises about 857 acres in western Fresno County, California. It is located generally to the south of the San Joaquin River, to the west of the town of Kerman, to the north of the Fresno Slough Bypass, and to the east of the Fresno Slough. Of this land, about 565 acres compose the State of California's Alkali Sink Ecological Reserve or are scheduled for addition to the Reserve, about 20 acres are part of the State-owned Mendota Wildlife Management Area, and the remainder is privately owned.

In considering designation of critical habitat, 50 CFR 424.12(b) requires focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species involved. With respect to the Fresno kangaroo rat, the area proposed as critical habitat satisfies all known criteria for the ecological, behavioral, and physiological requirements of the species. This area provides sufficient vegetation cover for escape from predators and to serve as a food source, land surface with hummocks to serve as secure burrowing sites, and substrate of suitable compactness to permit burrow construction. This area may not include the entire habitat of the Fresno kangaroo rat. The kangaroo rat could be discovered on or reintroduced to other areas within the general locality described above. Therefore, modifications to the critical habitat designation may be proposed in the future.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any determination of critical habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. In the case of the Fresno kangaroo rat, as previously indicated, conversion of native vegetation for agricultural use destroys suitable habitat. Moderate to heavy livestock grazing adversely modifies habitat, so that the number of Fresno kangaroo rats that can be supported is severely reduced. Any other activities that disturb the native vegetation and ecosystem would probably also adversely affect the kangaroo rat. Conversely, the same kinds of actions could be affected by the protection of the critical habitat of the kangaroo rat, if they are likely to adversely modify such habitat, and if they are authorized, funded, or carried out by a Federal agency (see "Available Conservation Measures," below).

Section 4(b)(2) of the Act requres the Service to consider economic and other impacts of specifying a particular area as critical habitat. In conjunction with the proposal to determine endangered status and critical habitat for the Fresno kangaroo rat, the Service notified Federal agencies that may have jurisdiction over the involved areas. These agencies and other interested parties were requested to submit information on economic or other impacts of the proposed measure. No such information was received, and no activities involving Federal agencies are presently known that may have an impact on the habitat of the Fresno kangaroo rat or be affected by the critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or

threatened pursuant to the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with States, and requires recovery actions. Such actions are initiated by the Service following listing. The protection required of Federal agencies, and taking and harm prohibitions, are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal in **Federal Register** of June 29, 1983, 48 FR 29990). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. No Federal activities are currently known that may affect the Fresno kangaroo rat or its critical habitat.

The Act, and its implementing regulations found at 50 CFR 17.21, sets forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Fresno kangaroo rat in interstate or foreign commerce. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions will apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22. Such permits are available for scientific purposes or to enhance the propagation or survival of the species.

The Service will now review the Fresno kangaroo rat to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48) FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major rule under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No significant economic or other impacts are expected to result from the designation of critical habitat for the Fresno kangaroo rat. The critical habitat is located on State and private lands in western Fresno County, California. There is no known involvement of Federal funds or permits for the State and private lands within the critical habitat designation. No direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by the designation. These determinations are based on a Determination of Effects that is available at the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

References

Culbertson, A.E. 1934. Rediscovery of *Dipodomys nitratoides exilis*. J. Mamm. 15:161–162.

Hafner, M.S. 1976. Density, distribution, and taxonomic status of *Dipodomys nitratoides nitratoides* Merriam, 1894 (Rodentia—Heteromyidae). Tech. Rept. to California Dept. Fish and Game. 15 pp.

Hall, E.R. 1981. The Mammals of North America. John Wiley and Sons, New York. 2 vols.

Hoffman, M.W., and D.L. Chesemore. 1982. Distribution and status of the Fresno kangaroo rat, *Dipodomys nitratoides exilis*. California Dept. Fish and Game, Nongame Wildl. Investig. Final Rept., Project E–W–5, Job IV–4.1 (draft).

Hoffman, W.M. 1974. The Fresno kangaroo rat study, 1974. California Dept. Fish and Game, Special Wildl. Investig. Final Rept., Project W–54–R, Job II–5.4.

Knapp, D.K. 1975. The Fresno kangaroo rat study, 1975. California Dept. Fish and Game, Nongame Wildl. Investig. Final Rept., Project W–54–R–7, Job I–1.8.

Koos, K.A. 1977. The Fresno kangaroo rat study, 1977. California Dept. Fish and Game, Nongame Wildl. Investig. Final Rept., Project E–1–1, Job IV–1.1.

Koos, K.A. 1979. The Fresno kangaroo rat study, 1978. California Dept. Fish and Game, Nongame Wildl. Investig. Final Rept., Project E–W–2, Job IV–2.0.

Merriam, C.H. 1894. Preliminary descriptions of eleven new kangaroo rats of the genera *Dipodomys* and *Perodipus*. Proc. Biol. Soc. Washington 7:1–64.

Warner, D.R. 1976. The effects of grazing on *Dipodomys nitratoides exilis* in an alkali sink community. M.S. thesis, California State University, Fresno.

Author

The primary author of this rule is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975 or FTS 235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under "MAMMALS:"

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Rat, Fresno kangaroo	*Dipodomys Nitratoides exilis*	U.S.A. (CA)	Entire	E	169	17.95(a)	NA

3. Section 17.95(a), "Mammals," is amended by adding the critical habitat of the Fresno kangaroo rat after that of the Florida manatee as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

* * * * *

Fresno kangaroo rat (*Dipodomys nitratoides exilis*)

California. An area of land, water, and airspace in Fresno County, with the following components (Mt. Diablo Base Meridian): T 14 SR 15 E, E½ NW¼ and NE¼ Sec. 11, that part of W½ Sec. 12 north of the Southern Pacific Railroad, E½ Sec. 12; T14S R16E, that part of Sec. 7 south of the Southern Pacific Railroad.

Within this area, the major constituent elements that are known to require special management considerations or protection are the hummocks and substrate that provide sites for burrow construction, and the natural alkali sink-open grassland vegetation that provides food and escape cover.

* * * * *

Dated: January 2, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-2287 Filed 1-29-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 41154-4154]

Tanner Crab Off Alaska

Correction

In FR Doc. 85-1407 beginning on page 2573 in the issue of Thursday, January 17, 1985, make the following correction: On page 2574, in the third column, in the twelfth through the fourteenth lines from the top of the page, the parenthetical expression should be replaced by "January 15, 1985".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 50, No. 20
Wednesday, January 30, 1985

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-132-AD]

Airworthiness Directives; Aerospatiale (Sud Nord) Nord 262A Series Airplanes Equipped With MARTIN Type Engine Fire Extinguishing System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) applicable to Aerospatiale Model Nord 262A series airplanes which requires replacement of the non-return valve in the MARTIN type engine fire extinguishing system. This action is necessary to prevent jamming of the non-return valve which could result in partial or total failure of the engine fire extinguishing system.

DATE: Comments must be received no later than March 18, 1985.

ADDRESSES: Mailing address for comments: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, Service Commercial N262, Boite Postale 159, 36003 Chareauroux, France, or may also be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael P. West, Foreign Aircraft Certification Branch; telephone (206) 431-2909.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-132-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction General de l'Aviation Civile (DGAC), which is the Civil Airworthiness Authority of France, has declared Aerospatiale N262 Fregate Service Bulletin No. 26-12 dated November 5, 1984, as mandatory. This service bulletin prescribes procedures for replacement of MARTIN type 12-09-21950 or ABG SEMCA ref. 821950 non-return valves in the MARTIN type fire estinguishing system.

Each engine fire extinguisher spraying system is equipped with a non-return valve to prevent a squibbed cylinder from emptying into the other cylinder.

On an in-service aircraft, following cylinder percussion, jamming of a non-return valve inner valve when moving to the open position was detected during an overhaul. Jamming of this valve could result in partial or total failure of the engine fire extinguisher spraying system, particularly if it follows an initial percussion of either cylinder.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require replacement of the MARTIN type 12-09-21950 or ABG SEMCA ref. 821950 non-return valves.

It is estimated that 16 U.S. registered airplanes would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the modification, and that the average labor cost would be $40 per manhour. Replacement parts are estimated at $225 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $5,520.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Aerospatiale Nord 262A series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Aerospatiale (Sud Nord): Applies to Nord 262A series airplanes, certificated in all categories and equipped with MARTIN type engine fire extinguishing system. Compliance required within 300 hours time in service or 6 months, whichever occurs first, after the effective date of this AD. To prevent failure of the MARTIN type engine fire extinguishing system accomplish the following, unless previously accomplished:

A. Replace non-return valves, MARTIN type 12-09-21950 or ABG SEMCA Ref. 821950 in accordance with Aerospatiale N262 Fregate Service Bulletin No. 26-12, dated November 5, 1984.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the

accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on January 16, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2279 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-116-AD]

Airworthiness Directives; British Aerospace (BAe) Argosy, AW-650 Series 100 and 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) which would require inspection, replacement, and modification, as necessary, of certain components on British Aerospace, Aircraft Group, Argosy airplanes, to detect and prevent cracks in the tail boom structure. This action is necessary because cracks have been reported in this area which could lead to loss of tail boom structure.

DATE: Comments must be received no later than March 18, 1985.

ADDRESSES: *Mailing address for comments:* FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washignton, D.C. 20041, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael West, Foreign Aircraft Certification Branch; telephone (206) 431-2909.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-116-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed on Argosy Model AW-650 Series 100 and Series 200 airplanes, operated under registry of the United Kingdom, to correct cracking of tail boom skin doubler plates. There have been several reports of cracks found in the tail boom skin doubler plates; failure to repair such cracks could lead to loss of tail boom structure.

It is estimated that 2 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1½ hours per airplane to accomplish the required inspections. Necessary modification parts would be locally manufactured and would require approximately 30 manhours to install. The average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD is estimated to be $2,520.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Argosy, AW-650 Series 100 and Series 200 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory document. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace Argosy: Applies to Model AW-650 Series 100 and 200 aircraft Serial Numbers 6651, 6652, 6653, 6656, 6660, 6801, 6802, 6803 and 6805, certificated in all categories. To prevent possible loss of the vertical fin, accomplish the following:

A. Within 350 flying hours after the effective date of this AD, visually inspect the tail boom frame skin doubler plates, items 5, 6, 7, and 8 on drawing BBH 2702, for cracks in accordance with British Aerospace Service Bulletin 55/41 dated May 1984.

B. If no cracks are found, repeat the inspection at intervals not to exceed 700 flying hours.

C. If any cracks are found, incorporate repair scheme BBH 2733 within the next 700 flying hours. Incorporation of BBH 2733 eliminates the requirement for the repetitive inspections required by paragraph A., above.

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

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on January 15, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2280 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-120-AD]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) applicable to British Aerospace Model HS/BH/DH 125 series airplanes which requires a visual inspection for flap nose rib cracks. After the AD was issued, the manufacturer released a new revision of the pertinent service bulletin which specifies a modification which the FAA has determined that, if accomplished, would make the inspection no longer necessary. This amendment would incorporate this change.

DATES: Comments must be received no later than March 18, 1985.

ADDRESSES: Mailing address for comments: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch; telephone (206) 431-2979.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changes in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-120-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA issued Amendment 39-4392 (FR 23694; June 1, 1982), AD 82-12-02, requiring visual inspection of the flap outboard hinge nose ribs for cracks. AD 82-12-02 makes reference to Revision 2 of British Aerospace 125 Service Bulletin 57-58. The manufacturer has since issued Revision 3 to this service bulletin, which introduces modification 252772. This modification deletes the flap nose ribs and introduces a revised flap vane hinge fitting. Incorporation of this modification on replacment flaps makes the inspection required in AD 82-12-02 unnecessary.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

This document proposes to amend an existing AD by deleting a requirement for inspection of the flaps if modification 252772 is incorporated. This revision would impose no additional regulatory or economic burden on any person.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, British Aerospace HS/BH/DH 125 airplanes are operated by small entities. A copy of a draft regulatory evaluation has been prepared for this action and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending Airworthiness Directive 82-12-02, Amendment 39-4392 (47 FR 23694; June 1, 1982), as follows:

1. Revise the first sentence to read as follows: "Applies to British Aerospace Model HS/BH/DH 125 up to and including series 700 airplanes certificated in all categories except those airplanes incorporating modification 252772."

2. Change the reference to the service bulletin revision and date in paragraph 1. of the AD to read, "Revision 3, dated September 1, 1983."

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on January 15, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-2278 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AAL-1]

Proposed Revision of Transition Area, Farewell, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area at Farewell, AK, to provide aircraft conducting flight under Instrument Flight Rules (IFR) with exclusive use of that airspace when the flight visibility is less than 3 miles, there-by enhancing the safety of such operations. The circumstances with created the need for this action was the revocation of Farewell, AK, control zone and the development of new instrument approach procedures to the Farewell, AK, airport from the Farewell Lake, AK, Nondirectional Radio Beacon NDB).

DATE: Comments must be received on or before March 7, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 85-AAL-1, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the FAA Rules Docket, Office of the Regional Counsel, Third Floor, Module F, Federal Building U.S. Courthouse, 701 C Street, Anchorage, Alaska.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse , 701 C street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT:
Robert C. Durand, Procedures and Airspace Specialist, (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S Courthouse, 701 C Street, Anchorage, AK, both before and after the closing date for comments.

A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Federal Aviation Administration, Manager, Operation, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, 701 C Street, Box 14, Anchorage, AK 99513, or by calling (907) 271-5902. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the base of controlled airspace at 700 feet above the surface in a circular area 7.5 statue mile radius of a point 7.5 statute miles from the Farewell Lake, AK, RBN on the 230° bearing and 1,200 feet above the surface in a rectangular area 18.5 statute miles long by 14 statute miles wide, north of the Farewell Lake, AK, RBN on the 020° bearing. While this airspace designation would exclude aircraft from conducting flight udner Visual Flight Rules (VFR) when the flight visibility is less than 3 miles, it would enhance the safety of aircraft conducting flight under Instrment Flight Rules (IFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the critieria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition area, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Farewell, AK—[Revised]

That airspace extending upward from 700-feet above the surface within a 7.5 mile radius of a point 7.5 miles from the Farewell Lake NDB on the 230° bearing and from 1,200 feet above the surface withing 9.5 miles west and 4.5 miles east of the 020° bearing from the Farewell Lake NDB (lat. 62°32'37.18"N., long. 153°37'03.63"W.) extending from the NDB to 18.5 miles north.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Anchorage, Alaska, on January 18, 1985.

Franklin L. Cunningham,
Director, Alaskan Region.

[FR Doc. 85-2285 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 84-ASO-27]

Proposed Alteration of Jet Route J-91; Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J-91 in the vicinity of Lakeland, FL, to improve the flow of air traffic between the Atlanta, GA, and Miami, FL, terminal areas.

DATE: Comments must be received on or before March 15, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-ASO-27, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall

regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASO–27." The postcard will be date/time stamped and returned to the commenter. All communications recieved before the specified closing date for comments will considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administrtion, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of Jet Route J–91 in the vicinity of Lakeland, FL. Recent construction in the vicinity of the Lakeland VORTAC has rendered Jet Route J–89 unusable north of Lakeland. Traffic proceeding over Atlanta to South Florida, is routinely rerouted via Atlanta, J–91, to Cross City, FL, then via radar vectors until southeast of Lakeland because J–89, which is the preferred route, is not usable in that area. This action would improve traffic flow, reduce controller workload and enhance arrival/departure flow in the Atlanta and Miami terminal areas. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regualtions for which frequent and routine amendments are necessary to keep them operationally current. It, therefore— (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Jet routes, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J–91—[Revised]

From INT Orlando, FL, 242° T (242° M) and Cross City, FL, 136° T (135° M) radials; Cross City, INT Cross City 338° T (337° M) and Atlanta, GA, 169° T (169° M) radials; Atlanta; Knoxville, TN Henderson, WV; to Bellaire, OH.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, Janurary 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on January 23, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–2282 Filed 1–29–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 146

[Docket No. 84N–0402]

Pulpy Nectars of Certain Small Fruits; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Codex Standard for Pulpy Nectars of Certain Small Fruits Preserved Exclusively by Physical Means (Codex Stan 122–1981) (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by April 1, 1985.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The FAO/WHO program has developed a large number of Codex standards, including a standard for pulpy nectars of certain small fruits preserved exclusively by physical means.

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for pulpy nectars of certain small fruits.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment on: (1) the need for, and desirability of, a standard for this food; (2) the specific provisions of the Codex standard (Codex Stan 122–1981) and any modifications that should be included in a U.S. standard, if established; and (3) any other pertient points.

FDA advises that if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the act; rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, the Codex standard for pulpy nectars of certain small fruits preserved exclusively by physical means specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA uses the methods published in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 146

Canned fruit juice, Food standards, Fruit juices.

The Codex standard under consideration is as follows:

[Codex Stan 122–1981]

Codex Standard for Pulpy Nectars of Certain Small Fruits Preserved Exclusively by Physical Means [1] (World-Wide Standard)

1. *Scope.*

This standard applies individually to pulpy nectars made from berries of the following species and their hybrids:

—bilberries (*Vaccinium myrtillus* L.)
—blackberries (*Rubus procerus* P. J. Muell., etc.)
—blackcurrants (*Ribes nigrum* L.)
—cloudberries (*Rubus chamaemorus* L.)
—cranberries (*Vaccinium oxycoccus* L., V. macrocarpon Ait.)
—currents red and white (cultivars from *Ribes rubrum* L., *R. pallidum*, Otto, and Dietr., *R. sylvestre* (Lam.) Mert. and W.D.J. Kock, etc.)
—elderberries (*Sambucus nigra*)
—gooseberries (*Ribes uva-crispa* L. and hybrids)
—raspberries (*Rubus idaeus* L.)
—rose hips (*Cynorrhoda of Rosa* spp.)
—rowanberries (*Sorbus aucuparis* L.)
—sallowthorn (*Hippophae rhamnoides* L.)
—strawberries (cultivars and hybrids from *Fragaris* spp.)
—whortleberries [2] (*Vaccinium vitis idaea* L.)

2. *Decription.*

Unfermented but fermentable pulpy product [3] intended for direct consumption, obtained by blending the total edible sieved or ground and homogenized product of clean, sound and ripe berries, concentrated or unconcentrated, with water and sugars or honey preserved exclusively by physical means.[4]

3. *Essential Composition and Quality Factors.*

3.1 *Minimum Content of Fruit Ingredient.* The minimum content of single strength fruit ingredient or the equivalent derived from concentrated fruit ingredient in pulpy nectars shall be as follows for:

	Minimum content (percent)
Sallowthorn	25
Blackcurrants	30
Rowanberries	30
Redcurrants	30
Whitecurrants	30
Gooseberries	30
Blackberries	30
Cloudberries	30
Cranberries	30
Whortleberries	30
Raspberries	40
Strawberries	40
Bilberries	40
Rose hips	40
Elderberries	50

3.2 *Sugars.* One or more of the sugars as defined by the Codex Alimentarius Commission shall be added. The total quantity of added sugars or honey, calculated as dry matter, shall not exceed 200 g/kg of the final product.

3.3 *Honey.* Honey, as defined by the Codex Alimentarius Commission, may be used if it is the sole added sweetening ingredient.

3.4 *Soluble Solids.* The soluble solids content of the product shall be not less than 13% m/m as determined by refractometer at 20°C, uncorrected for acidity and read as °Brix on the International Sucrose Scales.

3.5 *Ethanol Content.* The ethanol content shall not exceed 3 g/kg.

3.6 *Organoleptic Properties.* The product shall have the characteristic colour, aroma and flavour of the berry species from which it is made, taking into consideration the addition of honey in substitution of sugars.

4. *Food Additives.*

Maximum level

4.1 Citric acid, Limited by GMB.
4.2 Malic acid, Limited by GMP.
4.3 L-Ascorbic acid, as an antioxidant.

5. *Contaminants.*

Maximum level

5.1 Arsenic (As), 0.2 mg/kg.
5.2 Lead (Pb), 0.3 mg/kg.[5]
5.3 Copper (Cu), 5 mg/kg.
5.4 Zinc (Zn), 5 mg/kg.
5.5 Iron (Fe), 15 mg/kg.
5.6 Tin (Sn), 150 mg/kg.[5]

[1] Formerly CAC/RS 122–1979.

[2] Known also by the Swedish name of "lingon" berries.

[3] In some species the natural content of free benzoate and sorbate may cause the result of the fermentation test to be negative.

[4] For the purpose of this standard, at this time, preservation by physical means does not include ionizing radiation.

[5] This limit remains under review.

5.7 Sum of copper, zinc and iron, 20 mg/kg.

5.8 Sulphur dioxide, 10 mg/kg.

6. *Hygiene.*

6.1 It is recommended that the products covered by the provisions of this standard be prepared in accordance with the Recommended International Code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. No. CAC/RCP 2-1969) and the International Code of Practice—General Principles of Food Hygiene (Ref. No. CAC/RCP 1-1969, Rev. 1) recommended by the Codex Alimentarius Commission.

6.2 When tested by appropriate methods of sampling and examination, the product:

(a) Shall be free from microorganisms capable of development under normal conditions of storage; and

(b) Shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

7. *Weights and Measures.*

7.1 *Fill of Container.*

7.1.1 *Minimum Fill.* The nectar shall occupy not less than 90% v/v of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

8. *Labelling.*

In addition to Section 1, 2, 4 and 6 of the Codex General Standard for the Labelling of Prepackaged Foods (Ref. No. Codex Stan 1-1981) the following provisions apply:

8.1 *The Name of the Food.*

8.1.1 The name of the product shall be "X nectar" or "pulpy X nectar" or "nectar of X" or "pulpy nectar of X" where "X" is the common name of the berry used.

8.1.2 The words "minimum fruit content X%" shall appear in close proximity to the name of the product where "X" is the actual minimum percentage of fruit ingredient in the final product.

8.2 *List of Ingredients.*

8.2.1 A complete list of ingredients including added water shall be declared on the label in descending order of proportion.

8.2.2 The addition of L-ascorbic acid shall be declared in the light of ingredients as:

(a) "L-Ascorbic acid as antioxidant" or

(b) "Antioxidant".

8.3 *Net Contents.* The net contents shall be declared by volume in one or more of the following systems of measurement: Metric ("Systeme International"), U.S. or British units, as required by the country in which the product is sold; for British units, units of capacity measurement shall be used.

8.4 *Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

8.5 *Country of Origin.* The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

8.6 *Lot Identification.* Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

8.7 *Additional Requirements.* The following additional specific provisions shall apply:

8.7.1 No fruit or nectar may be represented pictorially on the label except that of the species of fruit used as the fruit ingredient.

8.7.2 When the product contains honey the declaration "contains honey" shall appear in close proximity to the name of the product.

8.7.3 No claim shall be made in respect of "Vitamin C" nor shall the term "Vitamin C" appear on the label unless the product contains such quality of "Vitamin C" as would be accepted by national authorities in the country in which the product is sold, as warranting such claim or the use of such term.

8.7.4 Where fruit nectars require to be kept under conditions of refrigeration, there shall be information for keeping and, if necessary, thawing of the product.

8.8 *Date Marking.* The "date of minimum durability" (preceded by the words "best before") shall be declared by the month and year in uncoded numerical sequence except that for products with a shelf-life of more than 18 months, the year will suffice.

The month may be indicated by letters in those countries where such use will not confuse the consumer.

In the case of products requiring a declaration of month and year, and the shelf-life of the product is valid to the end of a given year, the expression "end (stated year)" may be used as an alternative.

8.9 *Storage Instructions.* In addition to the date, any special conditions for the storage of the food shall be indicated if the validity of the date depends thereon.

Where practicable, storage instructions should be in close proximity to the date-marking.

8.10 *Bulk Packs.* In the case of fruit nectars in bulk, the information required by Sections 8.1.1 to 8.7.4 shall either be given on the container or in accompanying documents except that the name of the product and the name and address of the manufacturer or packer should appear on the container. However, the name and address of the manufacturer or packer may be replaced by an identification mark provided that such mark is clearly identifiable with the accompanying documents.

9. *Methods of Analysis and Sampling.*

See Part IV of this publication.

Part IV.—Methods of Analysis and Sampling (by Reference)

The methods of analysis referred to hereunder apply, as appropriate, to the Codex Standards for Fruit Juices, Concentrated Fruit Juices and Fruit Nectars preserved exclusively by Physical Means set forth in Parts I, II and III of this publication.

1. *Taking of Sample and Expression of Results as m/m.*

According to the IFJU Method No. 1, 1968, Determination of relative denisty and the IFJU General Sheet, 1971, Conversion of analytical results from m/v (g/1, mg/1) to m/m (g/kg, mg/kg) and the reverse.

2. *Test of Fermentability.*

According to the IFJU method No. 18, 1974, Fermentation Test. Results are expressed as "positive" or "negative".

3. *Determination of Apparent Viscosity.*

According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 22.008-22.010: Apparent viscosity (consistency) (5)—Official Final Action). Results are expressed in seconds.

4. *Determination of L-Ascorbic Acid.*

According to the IFJU method No. 17, 1964, Determination of L-Ascorbic acid, or micro-fluroimetric method of AOAC (Official Methods of Analysis of the AOAC 1975) 43.056-43.062. Results are expressed as mg L-Ascorbic acid/kg.

5. *Determination of Carbon Dioxide.*

According to the IFJU method No. 42, 1966, Determination of carbon dioxide. Results are expressed as g carbon dioxide/kg.

6. *Determination of Essential Oils.*

According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 22.096-22.097 and 19.117 Essential Oil (37)—Official First Action). Results are expressed as ml essential oils/kg.

7. *Determination of Ethanol.*

According to the IFJU method No. 2, 1968, Determination of alcohol (Ethyl alcohol).[1] Results are expressed as g ethanol/kg.

[1] To be amended by IFJU to take into account operating temperatures higher than 20 ° C.

8. *Determination of Honey.*
(To be elaborated).
9. *Determination of Hydroxymethylfurfural (HMF).*
According to the IFJU method No. 12 1968, Determination of hydroxymethylfurfural (HMF), as amended according to Postel (Deutsch. Lebensm. Rundsch., 1968, *64*, 318). Results are expressed as mg HMF/kg, rounded off to the nearest whole number.
10. *Determination of Minimum Content of Fruit Ingredient.*
(To be elaborated).
11. *Determination of Added Salt.*
According to the IFJU method No. 37, 1968, Determination of chloride (potentiometric micro-method). The determination of sodium is not necessary. Results are expressed as % m/m NaCl.
12. *Determination of Soluble Solids.*
According to the IFJU method No. 8B, 1968, Estimation of soluble solids, indirect determination (see Official Methods of Analysis of the AOAC, 1975, 22.019, 31.009 and 52.010). Results are expressed as % m/m sucrose ("Brix") with correction for temperature to the equivalent at 20 ° C.
13. *Determination of Sugars.*
According to the IFJU method No. 4, 1968, Determination of Sugar (Luft-Schoorl Method). Results are expressed as % m/m.
14. *Determination of Total Titrable Acids.*
According to the IFJU method No. 3, 1968, Determination of titrable acid (total acid). Results are expressed as g anhydrous citric acid/kg.
15. *Determination of Volatile Acids.*
According to the IFJU method No. 5, 1968, Determination of volatile acids. Results are expressed as g acetic acid/kg.
16. *Determination of Water Capacity and Fill of Containers.*
According to the method published in the Almanac of the Canning, Freezing, Preserving Industries, 55th Edition, 1970, p. 131–132, E.E. Judge and Sons, Westminster MD (USA).[3]
17. *Determination of Arsenic.*
According to the IFJU method No. 47, 1973, Determination of Arsenic (Method No. A.34/F of the "Office International de la Vigne et du Vin"). Results are expressed as mg arsenic/kg.
18. *Determination of Copper.*
According to the IFJU method No. 13, 1964, Determination of copper (photometric method). Results are expressed as mg copper/kg.
19. *Determination of Iron.*

[3] Reproduced in ALINORM 71/23, Appendix V.

According to the IFJU method No. 15, 1964, Determination of Iron (photometric method). The determination shall be made after dry ashing as described in Section 5—Remark (b). Results are expressed as mg iron/kg.
20. *Determination of Lead.*
According to the IFJU method No. 14, 1964, Determination of lead (photometric method).[3] Results are expressed as mg lead/kg.
21. *Determination of Mineral Impurities Insoluble in Hydrochloric Acid.*
According to the AOAC (1975) method (Official Methods of Analysis of the AOAC, 1975, 22.025 para. 1, 31.012 and 30.008 Ash insoluble in acid. Official Final Action). The exact concentration of HCl to be used is not critical. Results are expressed as mg mineral impurities insoluble in hydrochloric acid/kg.
22. *Determination of Sulphur Dioxide.*
According to the IFJU method No. 7, 1968, Determination of total sulphur dioxide. Results are expressed as mg SO_2/kg.
23. *Determination of Tin.*
(To be elaborated).
24. *Determination of Zinc.*
According to the AOAC (1975) method (Official Methods of Analysis of the AOAC, 1975, 25.136–25.142: Zinc—Official First Action. Colorimetric Method (26)).[4]

Interested persons may, on or before April 1, 1985, submit to the Dockets Management Branch (address above), written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small business consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: January 11, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–2301 Filed 1–29–85; 8:45 am]

BILLING CODE 4160–01–M

[3] Temporarily endorsed pending Codex General Methods.

[4] Temporarily endorsed pending consideration by the IFJU Working Group of AAS method (AOAC, 1975, 25.143–25.147) for general use in fruit juices.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 85–7]

General Materials Requirements; Proposed Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is assessing its policy on how the use of warranties and guaranties would affect the quality of construction and competition on Federal-aid projects. A series of issues are raised to assist with this assessment.

DATE: Comments must be received on or before April 1, 1985.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 85–7, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 4:15 p.m. e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. P.E. Cunningham, Chief, Construction and Maintenance Division, (202) 426–0392, or Mr. Hugh T. O'Reilly, Office of the Chief Counsel, (202) 426–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Contract provisions that require the contractor to guarantee or warrant materials and workmanship are prohibited by 23 CFR 635.413, except for limited warranties on electrical and mechanical equipment.

The regulation does not prevent a State from requiring the contractor to obtain, and assign to the State, any warranty or guaranty given as a customary trade practice for any product.

One reason for the current regulation is concern that guaranty or warranty requirements in specifications could indirectly result in Federal-aid participation in maintenance costs. Other reasons include concern about the possible proprietary nature of warranty requirements and their effect on competitive bidding. A notice of

proposed rulemaking (NPRM) published on January 29, 1981, (46 FR 9642) proposed major revisions to the General Material Requirements in 23 CFR 635, Subpart D. The following proposed revision to 23 CFR 635.413 was included in the NPRM: "States may specify guaranty requirements where the FHWA agrees that such provisions are consistent with the State's responsibility to maintain the completed project in accordance with 23 U.S.C. 116."

Only 13 comments were received for this NPRM. Of these, four addressed the guaranty and warranty clause. One comment supported the above clause and one requested clarification of the reference to maintenance; two comments opposed the permissive nature of the proposed clause. We believe the limited response indicates that the NPRM did not get adequate attention, possibly because of the timing in relation to the rulemaking moratorium. As a result of the moratorium on rulemaking, the proposed revisions to the General Materials Requirements were never finalized.

The use of warranty and guaranty clauses has been proposed by some State highway agencies to protect them from early failures. To assist FHWA in assessing its current policy on guaranties and warranties, comments are hereby requested. Comments are specifically requested on, but should not be limited to the following:

a. What effect would guaranties and warranties of short duration have on the quality of the final product? Would warranties of short duration lower product standards, thereby actually increasing the cost of maintenance to State highway agencies? Would quality be improved by producers wishing to reduce risk of having to perform work under warranty or would quality be reduced by producers willing to accept risk of repair or replacement in lieu of initial quality?

b. Would required warranties or guaranties have a significant effect on bid prices? Can this effect be quantified as to, warranty/guaranty cost for initial operation, and warranty/guaranty cost for the maintenance of the product?

c. What would be the effect on competition due to required warranties and guaranties? Would smaller companies be at a competitive disadvantage? Would distance from a project site be favorable to some companies over others due to relatively higher cost of performing work under warranty?

d. Would warranty/guaranty requirements result in disputes over actual causes of failure and whether failures were covered? How should responsibility be assigned for failure due to equipment, material, or workmanship among the manufacturer, material producer, and the contractor?

e. Should warranty/guaranty requirements cover material and/or workmanship?

f. Would correction of defects which may constitute a safety hazard be delayed until work can be accomplished under guaranty/warranty?

g. What can be done to ensure that guaranty/warranty requirements are not proprietary?

h. What items lend themself to being accepted by warranty/guaranty clauses and are there items that should remain under the traditional construction inspection procedure?

i. Could approved product lists developed by State highway agencies be used in lieu of warranty/guaranty clauses?

j. How should a warranty/guaranty period be established? When does the warranty/guaranty period become so long as to cover normal maintenance operations?

It is anticipated that any proposed changes to 23 CFR 635.413 resulting from the comments received would be included in a subsequent NPRM covering a comprehensive revision to 23 CFR 635, Subpart D. In addition to comments on warranties and guaranties, comments are invited on other provisions of Subpart D including use of material made available by a public agency, restrictions upon materials, and material on product selection. Revisions to the Buy America requirements will not be considered in this review.

The FHWA has determined, at this time, that this document contains neither a major proposal under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared, if necessary, based upon the data received in response to this notice.

Based upon the information available to FHWA at this time, the action proposed in this notice will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

(23 U.S.C. 315; 49 CFR 1.48)

List of Subjects in 23 CFR Part 635

Government contracts, Grant programs—transportation, highways and roads.

Issued on: January 14, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85-2357 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-22-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Notice of Final Date for Voluntary Relocation Application

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes rules regarding Notice of Final Date for Voluntary Relocation Application. This action is necessary to respond to the Fiscal Year 1985 Interior Appropriations Bill, Pub. L. 98-473, which contains language establishing July 7, 1985, as a deadline for receipt of applications for voluntary relocation.

DATES: Comments must be received March 1, 1985.

ADDRESS: Comments may be sent to the Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002, Telephone: (602) 779-2721.

SUPPLEMENTARY INFORMATION: The Fiscal Year 1985 Interior Appropriations Bill, Pub. L. 98-473, contains language establishing July 7, 1985 as a deadline for receipt of applications for voluntary relocation. The Conference Report also contains the following explanatory language:

> Language is included in the bill to establish July 7, 1985 as deadline for receipt of applications for voluntary relocation instead of June 30, 1985 as proposed by the Senate.
>
> The managers agree that benefits for voluntary relocation shall be available only to those households or individuals who have filed an application with the Commission on or prior to July 7, 1985.
>
> With respect to "involuntary relocatees", the managers believe that it is the responsibility of the Commission to notify those individuals eligible for relocation of the change in the date for applications. After July

7, 1985, those people who have not applied cannot be considered uninformed and therefore are "involuntary relocatees" if they have not made the effort to apply for relocation with the Commission.

In order to implement these provisions, the Commission must adopt regulations which provide for notice to applicants, filing of applications, and defining involuntary relocation.

The principal author of this proposed rulemaking is E. Susan Crystal, Attorney-at-Law, of the Navajo and Hopi Indian Relocation Commission.

List of Subjects in 25 CFR Part 700

Adminstrative practice and procedure, Conflict of interests, Freedom of Information, Grant program—Indians, Indian—claims, Privacy, Real property acquisition, Relocation Assistance.

Authority: 25 U.S.C. 640d, Pub. L. 93-531, 25 U.S.C. 640d-14, Pub. L. 96-305.

PART 700—PROPOSED AMENDMENTS

Accordingly, the Commission proposes to amend Subpart C, by revising § 700.137, and adding § 700.138—Involuntary Relocatee, and by removing § 700.139—Referral for Action, as follows:

Subpart C—General Relocation Requirements

§ 700.137 Notice of final date for voluntary relocation application.

(a) *General.* Persons identified by the Commission as potentially subject to relocation who have not applied for relocation assistance shall be contacted by the Commission as soon as practicable following the final publication of this rule and informed of the deadline for application for voluntary relocation benefits.

(b) In order to be considered for voluntary relocation assistance benefits, an applicant must have filed a completed application form with the Commission by close of business on July 8, 1985.

§ 700.138 Involuntary relocation.

(a) An involuntary relocatee is a head of household who: (1) Fails to submit an application by July 8, 1985; (2) otherwise meets published eligibility criteria as of July 8, 1985; and (3) is domiciled on the partitioned lands as of July 8, 1985.

(b) Pursuant to 25 U.S.C. 640d-14(d)(3), heads of household who do not make timely arrangements for relocation housing shall be provided a relocation homesite to be agreed upon by the relocatee and the Commission.

(c) The Commission shall utilize amounts payable with respect to such household under 25 U.S.C. 640d-14(b)(2) and under 25 U.S.C. 640d-14(a) for the construction or acquisition of a home and related facilities for such household.

(d) Persons identified by the Commission as potentialy subject to relocation who have not applied for relocation assistance by July 8, 1985, shall be contacted by the Commission as soon as practicable. At such time, the Commission shall—(1) request that the head of household choose an available area for relocation, and contract with the Commission for relocation; and (2) offer the relocatee suitable housing; and (3) offer to purchase from the head of household the habitation and improvements; and (4) offer provisions for the head of household and his family to be moved (e.g., moving expenses, etc.).

§ 700.139 [Removed]

Ralph A. Watkins, Jr.,

Chairman, Navajo-Hopi Indian Relocation Commission.

[FR Doc. 85-2128 Filed 1-29-85; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 555; Reference Notice Nos. 480, 491, 549]

Reduced Proof Distilled Spirits Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: On August 4, 1983, ATF published an advance notice of proposed rulemaking relating to new standards of identity for distilled spirits products bottled at less than the minimumn bottling proof required by 27 CFR 5.22. This notice [48 FR 35460] was published in response to a petition submitted by Heublein Spirits Group. Heublein's petition sought amendment of the standards of identity to allow bottling of distilled spirits at less than the prescribed bottling proof in conjunction with the word "Mild" on the label to describe them, and revocation of ATF Ruling 75-32 which requires such products to be designated "Diluted."

Since that notice, the comment period was extended by Notice No. 491 [48 FR 49870], and later reopened by Notice No. 549 [49 FR 44921] until January 31, 1985.

Recently, Joseph E. Seagram & Sons, Inc. has requested an extension of the comment period to allow them time to complete a consumer survey in regard to reduced proof distilled spirits and the use of the term "diluted" on labels. Due to the complex nature of the issues involved and the far reaching implications of the suggested changes to the standards of identity for distilled spirits, ATF is extending the period for submission of written comments to Notice No. 480 until April 15, 1985.

DATE: Written comments must be received by April 15, 1985..

ADDRESS: Send written comments to: Chief, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 [Attention: Notice No. 480]

Copies of the petition and written comments will be available for public inspection and copying during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

Authority: This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Approved: January 25, 1985.

Stephen E. Higgins,

Director.

[FR Doc. 85-2452 Filed 1-29-85; 8:45 am]

BILLING CODE 4810-31-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act; Incomplete or Unavailable Information

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On December 31, 1984 the Council on Environmental Quality published an Advance Notice of Proposed Rulemaking (49 FR 50744), announcing that it was considering the need to amend the regulation entitled "Incomplete or unavailable information" (40 CFR 1502.22). That notice included a solicitation of views with respect to

certain questions concerning the subject rule. We have received several requests to extend the date on which we will accept comments. Thus, we are extending the comment period for responses to February 15, 1985.

DATES: Comments must be received by Friday, February 15, 1985.

ADDRESS: Comments should be addressed to Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Council, Council on Environmental Quality, (202) 395-5754.

A. Alan Hill,

Chairman.

[FR Doc. 85-2408 Filed 1-29-85; 8:45 am]

BILLING CODE 3125-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Conservation Grants to Museums

AGENCY: Institute of Museum Services, NFAH.

ACTION: Proposed guidelines and standards.

SUMMARY: The Institute of Museum Services issues proposed guidelines and standards relating to a program of Federal financial assistance for conservation projects in museums. The guidelines and standards implement the Museum Services Act. They state eligibility conditions and other terms for the administration of the museum conservation program.

DATE: Comments must be received on or before March 1, 1985.

ADDRESS: Comments should be addressed to Kristine Ramaekers, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Kristine Ramaekers. Telephone: (202) 786-0539.

SUPPLEMENTARY INFORMATION:

1. General Background

The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980.

The purpose of the Act is stated in section 202 as follows:

> It is the purpose of [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museum disciplines, incuding those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational and cultural resources of the United States, and of the general public. In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution and the Director of the National Science Foundation. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97-100, December 23, 1981, Pub. L. 97-394, December 30, 1982.

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in developing and maintaining professionally trained staff, developing and carrying out specialized museum programs for specific segments of the public, and cooperating with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan. Assisting museums to carry out conservation activities is expressly authorized in the Act.

2. Need for These Guidelines and Standards

The fiscal year 1985 appropriation for IMS, contained in Pub. L. 98-473 (Oct. 12, 1984), makes available $3,430,000 for conservation.

During Fiscal Year 1984 IMS operated a program of assistance for conservation projects pursuant to the Department of Interior and Related Agencies Appropriations Act, 1984, Pub. L. 98-148. IMS issued guidelines and standards for the operation of this program during fiscal year 1984 only. 49 FR 3860 (Jan. 31, 1984). It is therefore necessary to establish guidelines and standards for the further conduct of the program to facilitate proper and efficient administration of the appropriated funds. Guidelines and standards of general applicability with respect to such matters as eligibility, use of funds, funding criteria and post-award conditions have therefore been developed by the Board and are appropriately published in this document in proposed form.

The guidelines and standards will be included as part of the IMS regulations (which are codified in 45 CFR Part 1180). Further information regarding the program is contained in the agency's application package.

3. Highlights of the Program

The IMS conservation program was established through a line item in the fiscal year 1984 appropriation. The House Committee report contained language regarding the structure of the program. H.R. Rept. No. 98-253, 98th Cong. 1st Sess. 113 (1983).

In recommending the appropriation for fiscal year 1985, the House Committee report stated:

> The amount recommended by the Committee continues the initiative for conservation grants. * * * This will provide a maximum of $25,000 to be matched equally in addition to any general operating support an institution may receive. This will allow * * * institutions to provide for conservation programs either by hiring new staff or through contracting. The Committee expects the Board to continue the 1984 program guidelines with employment of a special panel to review this grant program.

The development of the guidelines and standards in this document has been carried out in light of this language.

In summary, the program provides grants to museums of up to $25,000 for conservation projects on a matching basis. Therefore, a museum must supply at least 50 percent of the project costs from non-federal sources. Grants are made only to museums. The project period may not exceed two years.

4. Paragraph by Paragraph Analysis

The following paragraphs describe the guidelines on a paragraph by paragraph basis.

Paragraph (a) of § 1180.20 sets forth the scope of the guidelines and standards.

Paragraph (b) indicates which of the existing regulations of IMS apply to the program. With stated exceptions, these regulations generally apply.

Paragraph (c) contains the definition of conservation and is based upon prior regulations of the Institute which contained such a definition.

Paragraph (d) indicates that only museums as defined in § 1180.3 of the IMS regulations may apply and only one conservation grant may be awarded to a museum in a fiscal year.

Paragraph (e) sets forth examples of the types of projects which may be assisted, including:

—Projects to conduct or obtain training in conservation;
—Projects to conduct research in conservation;
—Projects to develop improved or less costly methods of conservation or both;
—Projects related to museum conservation needs not regularly addressed by other Federal funding agencies;
—Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities; and
—Projects to conserve particular objects in a museum's collection.

Paragraph (f) indicates that a grant may not be made for more than $25,000 and that conservation grants do not count toward the maximum ceiling for GOS. Matching requirements in the Act apply but not the rule that IMS normally makes grants for only 10 percent of a museum's budget.

Paragraph (g) provides for application requirements. In general, application requirements applicable to other IMS programs apply. Requirements relating to long-range plans and maintenance of effort are inapplicable.

Paragraph (h) describes application review procedures. IMS expects to use panels of experts. However, depending on the number of applications and other factors, field reviewers may be used to evaluate applications before submission to panels, and, in this event, it is anticipated that not all applications will be reviewed by the panels.

Paragraph (i) sets forth funding criteria by which applications are judged.

Paragraph (j) describes the duration of a grant.

Paragraph (k) provides an additional condition with respect to the award of grants.

Paragraph (l) describes allowable and unallowable costs.

5. Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed guidelines and standards. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before March 1, 1985 will be considered before final regulations are issued.

All comments submitted in response to these proposed guidelines and standards will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., NW., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

6. Executive Order 12291

These guidelines and standards have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

7. Regulatory Flexibility Act Certification

The Director certifies that these guidelines and standards will not have a significant economic impact on a substantial number of small entities.

To the extent that they affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These guidelines and standards will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, they will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. They impose minimal requirements to ensure the proper expenditure of grant funds.

8. Paperwork Reduction Act

The Information collection requirements in these proposed guidelines and standards will be sent to Office of Management and Budget (OMB) for review under provisions of section 3504(H) of the Paperwork Reduction Act of 1980. Comments concerning information collection requirements *only* should be addressed to the Office of Information and Regulatory Affairs, OMB, NEDS, Rm: 3208, 17th & Penn. Ave., NW., Washington, DC 20503 Attn: Desk Officer for IMS. All other comments regarding these proposed guidelines and standards should be sent to IMS at address given at the beginning of these proposed guidelines and standards.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Dated: January 18, 1985.

Susan Phillips,

Director, Institute of Museum Services.

Dated: January 22, 1985.

Peter H. Raven,

Chairman, National Museum Services Board.

The Institute of Museum Services amended Subchapter E of Chapter XI of Title 45 of the Code of Federal Regulations by revising the heading of Subpart A, and by revising § 1180.20, as set forth below:

PART 1180—GRANTS REGULATIONS

Subpart A—General Operating Support; Conservation Grants

* * * * *

§ 1180.20 Guidelines and standards for conservation projects.

(a) *Scope.* The guidelines and standards in this document apply to all aspects of the IMS conservation grant program including the submission of applications by museums for conservation grants, to the award, review and approval of such applications by IMS, and to the carrying out of conservation grants awarded by IMS.

(b) *Applicability of regulations.* (1) Except as otherwise provided in these guidelines, subparts A–C of this part, part 1180 of Title 45 CFR, (45 CFR 1180.1–1180.58) (IMS Grants Regulations), as amended, apply to the IMS conservation grant program.

(2) Sections 1180.11(d) does not apply. A museum which applies for a conservation grant need not submit a long-range plan.

(3) Section 1180.11(e) (relating to maintenance of effort) does not apply.

(4) Section 1180.16(b), which provides that IMS normally does not make grants for more than 10 percent of a museum's operating budget, does not apply to conservation grants.

(5) In addition to submitting the final report required by § 11890.17, a grantee

must submit an interim report in accordance with a schedule set forth in the grant award document.

An applicant that has received a prior conservation grant from IMS the performance of which has not been completed may be required to submit an additional performance report or submit an interim report early.

(c) *Definition.* As used in these guidelines, the term "conservation" includes, but is not limited to, the following functions, as applied to art, history, natural history, science and technology, and living collections:

(1) Technical examination of materials and surveys of environmental and collection conditions;

(2) Provision, insofar a practicable, or optimum environmental conditions for housing, exhibition, monitoring, reformating, nurturing and transportation of objects;

(3) Physical treatment of objects, specimens and organisms, for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and physical compensation for losses; species survival activities; and

(4) Research and training in conservation.

(d) *Applicants.* Under the Museum Services Act only a museum may receive a grant. (20 U.S.C. 965(a)). See § 1180.3 of the IMS regulations for the definition of "museum". A museum may receive only one conservation grant under this program in a fiscal year.

(e) *Types of conservation projects funded.* IMS considers applications to carry out conservation projects such as:

(1) Projects to conduct or obtain training in conservation (including training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to develop improved or less costly methods of conservation or both.

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities, such as the use of regional conservation centers or mobile conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum of a group of museums may use a grant to obtain services from a center.

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits on Federal funding.* See also paragraph (1) (allowable costs). (1) IMS makes a conservation grant which obligates no more than $25,000 in Federal funds. A conservation grant is not included in the maximum amount which a museum may expect to receive from IMS for a fiscal year, as set forth pursuant to § 1180.9 of the regulations. Therefore, a museum may receive, for example, a General Operating Support grant for the amount specified pursuant to that section and an additional $25,000 for a conservation grant in a fiscal year. A museum may not receive more than $25,000 for a conservation grant.

(2) IMS makes conservation grants only on a matching basis. This means that at least 50% of the costs of a conservation project must be met from non-Federal funds. Principles in applicable OMB circulars regarding cost sharing or matching apply. See, e.g. OMB Circular A–102, Attachment F.

(g) *Application requirements.* Application requirements in §1180.11 (a), (b), (c) and (f) apply. Where appropriate, IMS may require an applicant to submit a dissemination plan.

(h) *Procedures for review of applications.* (1) IMS uses the procedures stated in this paragraph to review applications for conservation projects.

(2) IMS evaluates all eligible applications for conservation projects in accordance with applicable criteria. (See paragraph (i) below) The Director expects to use panels of experts to review at least a portion of the applications for conservation grants. Depending upon the number of applications received as well as other factors, the Director may also use field reviewers to evaluate applications before submission of applications to the panels. In addition, the Director may use technical experts to provide technical advice regarding certain applications. See generally § 1180.12 of the IMS regulations.

(3) IMS evaluates applications for conservation projects separately from applications for general operating support.

(i) *Criteria.* This paragraph sets forth the criteria which IMS uses in evaluating and reviewing applications for conservation grants. Panelists and field reviewers are instructed to use only these criteria in the evaluation and review of these applications.

(1) The following programmatic criteria apply to the evaluation and review of conservation grants:

(i) What is the importance of the object or objects to be conserved? What is the significance of the object or objects to the museum's collection and/or audience?

(ii) What is the need for the project, including the relationship of the project to the conservation needs and priorities of the applicant museum as reflected in a survey of conservation needs or similar needs assessment?

(iii) What are the applicant's plans to use and maintain the anticipated results or benefits of the project after the expiration of Federal support?

(iv) Does the applicant plan to devote adequate financial and other resources to the project without inhibiting its ongoing activities?

(2) The following technical criteria apply to the evaluation and review of applications for conservation grants:

(i) What is the nature of the proposed project with respect to project design and management plan?

(ii) To what extent does the application exhibit knowledge of the technical area to which the conservation project relates and employ the most promising or appropriate methods or techniques of conservation? To what extent is the conservation project likely to use, develop or demonstrate improved, more efficient, or more economic methods of conservation?

(iii) Does the project have an adequate budget to achieve its purpose? Is the budget reasonable and adequate in relation to the objectives of the project?

(iv) What are the qualifications of the personnel the applicant plans to use on the project and the proposed time that each person is obligated to commit to the project?

(j) *Duration of grant.* IMS makes a conservation grant under this section for a period not to exceed two years.

(k) *Grant condition.* An applicant which has received a grant in a prior fiscal year under the IMS conservation grant program may not receive a grant in a subsequent fiscal year under this section until required reports have been submitted regarding the performance of the previous grant.

(l) *Allowable and unallowable costs.*

(1) Section 1180.10 of the IMS regulations, which applies to conservation grants, sets forth the rules applicable to determining the allowability of costs under IMS grants and refers readers to the OMB circulars containing applicable cost principles which govern Federal grants generally.

(2) In general such costs as compensation for personal services, costs of materials and supplies, rental costs, and other administrative costs specifically related to a conservation project are allowable under a conservation grant in accordance with applicable cost principles.

(3) Costs of alterations, repairs and restoration to an existing facility are allowable when they are related to a conservation project under a conservation grant in accordance with applicable cost principles.

(4) Costs of equipment are generally allowable if related to a conservation project but do require the specific approval of the Director as indicated in the grant award document.

(5) A grantee may award a stipend to an individual for training in connection with a conservation project. Stipends and allowances may be paid at rates and under conditions established by the Director consistent with policies of other agencies in the Foundation or other agencies or instrumentalities of the United States providing comparable assistance with respect to conservation.

(6) Costs of new construction are unallowable. For example, a museum may not use a conservation grant to construct a new building or an addition to an existing building to improve the environment in which its collections are housed.

Authority: Museum Services Act, 20 U.S.C. 961–968, Pub. L. 94–462, as amended, 90 Stat. 1975–1978.

[FR Doc. 85–1981 Filed 1–29–85; 8:45 am]
BILLING CODE 7035–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85–4; RM–4849]

TV Broadcast Stations in Flagstaff, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of VHF Television Channel 9 to Flagstaff, Arizona, in response to a petition filed by Terrell Communications as that community's fifth television assignment.

DATES: Comments must be filed on or before March 15, 1985, and reply comments on or before April 1, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Flagstaff, Arizona) (MM Docket No. 85–4, RM–4849).

Adopted: January 7, 1985.
Released: January 22, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Terrell Communications ("petitioner") requesting the assignment of VHF TV Channel 9 to Flagstaff, Arizona, as that community's fifth television channel. Petitioner states that he will apply for the channel, if assigned.

2. Flagstaff (population 34,743),[1] seat of Conconino County (population 75,008), is located in northern Arizona approximately 190 kilometers (120 miles) north of Phoeniz, Arizona. Flagstaff currently has two commercial and one noncommercial educational channel. In addition, the Commission has proposed to assign Channel 4 (MM Dkt. 84–707).

3. The proposed assignment can be made in compliance with the minimum distance separation requirements and other technical criteria. Since the proposed assignment is within 400 kilometers (250 miles) of the U.S.-Mexico border, Mexican concurrence is required.

4. In view of the fact that Flagstaff could receive an additional television service, we shall seek comments on the proposal to amend the Television Table of Assignments, §73.606(b) of the Commission's Rules, with respect of the following community:

City	Channel No.	
	Present	Proposed
Flagstaff, AZ	2, 13, and *16	2, 4+, 9, 13, and *16

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 15, 1985, and reply comments on or before April 1, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Terrell Communications, c/o Gary D. Terrell, 2420 Belair, Magnolia, Arkansas 71753.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of

[1] Population figures are extracted from the 1980 U.S. Census.

1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisoins of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street. NW., Washington, D.C.

[FR Doc. 85-2395 Filed 1-29-85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

Federal Acquisition Regulation (FAR); Utilization of Women-Owned Small Businesses

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Request for comment on proposed rule.

SUMMARY: The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering a change to (a) FAR 19.902, which prescribes the use of the contract clause at FAR 52.219-13, Utilization of Women-Owned Small Businesses, to reflect the increase in the small purchase dollar limitation from $10,000 to $25,000, and to correct the prescriptive language to require inclusion of the clause in solicitations as well as contracts under specified conditions, and (b) the preface to the clause at FAR 52.219-13.

DATE: Comments on the proposed revision should be submitted in writing to the FAR Secretariat at the address shown below on or before April 1, 1985, to be considered in the formulation of the final rule. Please cite FAR Case No. 85-3 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: General Services Administration, Attn: FAR Secretariat (VR), 18th and F Streets, NW, Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION:

PART 19—[AMENDED]

1. It is proposed that FAR 19.902 be revised to read as follows:

§ 19.902 Contract clause.

To encourage the use of women-owned small businesses when subcontracting, the contracting officer shall insert the clause at 52.219-13, Utilization of Women-Owned Small Businesses, in solicitations and contracts when the contract amount is expected to exceed the small purchase limitation, except—

(a) Contracts that, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands, and

(b) Contracts for personal services.

2. Additionally, it is proposed that the preface to the clause at 52.219-13 be revised to eliminate instructions from FAR Part 52, Solicitation Provisions and Contract Clauses, that repeat instructions specified in the FAR text governing the use of the provision or clause. The proposed revision of the preface results from a decision that all prefaces to the solicitation provisions and contract clauses prescribed by the FAR will be revised to eliminate (a) the repetition of prescriptive language that is specified elsewhere in the FAR, and (b) the possibility that the prefaces will be incorporated into the language of the solicitation provisions and contract clauses.

List of Subjects in 48 CFR Ch. I

Government procurement.

(40 U.S.C. 486(c); Chapter 137, 10 U.S.C.; 42 U.S.C. 2453(c))

Roger M. Schwartz,

Director, FAR Secretariat.

[FR Doc. 85-2289 Filed 1-29-85; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[NHTSA Docket No. T84-01; Notice No. 02]

Extension of Date for Proposing Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of extension of date for issuing notice of proposed rulemaking.

SUMMARY: This notice extends the period provided by section 602(c) of Title VI of the Motor Vehicle Information and Cost Savings Act for development and publication of a proposed motor vehicle theft prevention standard. That section provides that the proposed standard must be published within three months after Title VI became law, unless the agency finds good cause for an extension and publishes its reasons for that finding. Since Title VI became law on October 24, 1984, the original period ends January 24, 1985.

Notwithstanding NHTSA's efforts to issue the proposed standard by January 24, the tightness of the schedule and the complexity of the tasks have made that impossible. Title VI imposes on this agency the responsibility for making a large number of policy decisions regarding technological and economic issues involved in rulemaking and other matters, but allows limited time in which to acquire and analyze the information necessary to make those decisions so as to implement effectively that title. Upon enactment of the anti-theft provisions, the agency immediately began to identify the policy questions and information needs underlying the various requirements of those provisions. A series of meetings were held with individual manufacturers, insurance companies, various interested organizations and government agenices to begin obtaining the necessary answers and information.[1] To expand and accelerate that process, the agency held a two day public meeting in early December and invited the submission of written comments ten days later. All of these efforts have yielded a large amount of comments and data which the agency is still analyzing and using in developing the details of its proposals regarding the theft prevention standard. The additional time which this notice provides for completion of the agency's efforts will significantly enhance the quality of the proposed standard.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Director, Office of Market Incentives, Room 5313, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1740).

(Sec. 101, Pub. L. 98-547, 15 U.S.C. 2021; delegation of authority at 49 CFR 1.50)

Issued on January 24, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-2183 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-59-M

[1] In the November 19, 1984 issue of the Federal Register (49 FR 45629), DOT published a document announcing a series of meetings to obtain comments on the implementation of Title IV of the Motor Vehicle Information and Cost Savings Act, under 49 CFR Part 542. DOT has now decided to propose the standards under 49 CFR Part 541.

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Rulemaking Petition

AGENCY: National Highway Traffic Safety Administration, (NHTSA), DOT.

ACTION: Denial of rulemaking petition.

SUMMARY: This notice denies a petition filed by Mr. William T. Wambach, Jr., to amend Federal Motor Vehicle Safety Standard No. 111, *Rearview mirrors*, to delete the provisions which permit the installation of a convex mirror on the exterior, passenger side of a passenger car. The petitioner states that, despite the agency's required caution on this convex mirror—"Objects in Mirror Are Closer Than They Appear,"—he has experienced close calls due to errors in judging distance in passing maneuvers and has observed this behavior in other drivers.

The agency issued a final rule on September 2, 1982, which permitted the use of either convex or unit magnification rearview mirrors on the exterior, passenger side of passenger cars and light trucks.

In that final rule, the agency cited research which had found that a driver's ability to use convex mirrors improved significantly with experience. Although the agency recognizes the potential problems which drivers may temporarily experience with convex mirrors, it continues to believe that the safety benefit, which is provided by the expanded field of view of the right, rear quadrant area adjacent to a vehicle, more than outweighs the problem mentioned by the petitioner.

In addition, the petition requests that the standard be amended so that convex mirrors are no longer permitted on motorcycles. Standard No. 111 has permitted the installation of either unit magnification or convex mirrors on motorcycles since 1976. Specifications for both types of mirrors are intended to provide the motorcycle rider with a reasonably clear and unobstructed view to the side and rear. Convex mirrors are currently in common use on motorcycles and the agency is not aware of significant problems occurring to motorcycle riders from their use.

For these reasons, the petition to amend Standard No. 111 by deleting the provisions permitting the installation of convex mirrors on passenger cars and motorcycles is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rutland, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-2153.

SUPPLEMENTARY INFORMATION: Standard No. 111 specifies requirements for the performance and location of rearview mirrors on passenger cars, multipurpose passenger vehicles, trucks, buses, schoolbuses, and motorcycles. On September 2, 1982, the agency issued a final rule amending the standard (47 FR 38698), which permitted the installation of convex mirrors, instead of unit magnification mirrors, on the exterior, passenger side of passenger cars and light trucks, when the inside rearview mirror does not meet the field of view requirements. The purpose of this rule is to improve driver rearward visibility.

Prior to issuance of this final rule, research conducted for the agency by Vector Enterprises, Inc. indicated that convex mirrors should result in safety benefits by providing the driver with an increased field of view of the area to the right rear of a car. The report also identified potential image distortion problems with convex mirrors and possible driver difficulties in adjusting to convex mirrors. The reports, however, concluded that the potential problems with convex mirrors can be greatly mitigated. For example, one of this study's findings was that image distortion problems are substantially reduced by limiting variation in the radius of curvature of convex mirrors. Therefore, the agency's final rule sets limits on variations in the radius of curvature. Another finding was that a driver's ability to use convex mirrors improved significantly with experience. To alert the driver that a mirror is convex, the agency requires both a statement in the vehicle owner's manual and a permanent warning on the mirror itself that "Objects in Mirror Are Closer

Than They Appear." The agency believes that drivers are continually reminded by this warning of any potential spatial relationship problem. As discussed above, the agency believes that the standard adequately addresses the potential problems of convex mirrors. The use of convex mirrors provides safety benefits by offering an expanded field of view in the right rear quadrant adjacent to the vehicle, which reduces the "blind spot" problem. The agency concludes that these safety benefits outweigh the problems raised by the petitioner.

The petitioner also requested that the standard be amended to require that the outside, passenger side rearview mirror be adjustable from the driver's seat. The standard now states that this mirror need not be adjustable from the driver's seat, but must be able to be tilted horizontally and vertically. Currently, some manufacturers provide horizontal and vertical adjustment of this mirror from the driver's seat. The agency's opinion is that adjustment from the driver's seat is a convenience, but not a necessity from a safety standpoint, because these outside mirrors do not have to be continually readjusted. Therefore, the additional cost of this requirement would not be justified.

Finally, the petitioner requested that convex mirrors no longer be permitted on motorcycles. Standard No. 111 has permitted either unit magnification or convex mirrors to be installed on motorcycles since 1976. Specifications for minimum requires reflective surface area for both types of mirrors are intended to provide the motorcycle rider with a clear view to the side and rear. In addition, the radius of curvature is limited for convex mirrors to reduce distortion. Convex mirrors are currently in common use on motorcycles and the agency is not aware of significant problems occurring to riders from their use. The agency concludes that continuing to permit the installation of convex mirrors on the motorcycles provides a safety benefit to the rider.

For the reasons given above, this petition is denied.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 24, 1985.

Barry Felrice,

Assistant Administrator for Rulemaking.

[FR Doc. 85-2291 Filed 1-29-85; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

Hydraulic Brake Systems; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Volkswagen concerning Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. The petitioner requested a change in the standard's requirements concerning the brake warning indicator lamp check function. The standard requires an automatic check each time the vehicle is started. The petition denied by this notice requested that the standard be amended to require only that the function of indicator lamps be easily verifiable by the driver.

FOR FURTHER INFORMATION CONTACT: Mr. Vern Bloom, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: A petition for rulemaking has been submitted by Volkswagen (VW), concerning Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. That standard requires manufacturers to provide brake warning indicator lamps to warn drivers of low fluid level or pressure differential in the brake system, a failure in an antilock or variable proportioning system, and parking brake applied condition. The requirement may be met by a single indicator lamp or by multiple indicator lamps. Standard No. 105 further requires, in section S5.3.2, that the required brake warning indicator lamps be activated as a check of lamp function either when the ignition switch is turned to the "on" position when the engine is not running or when the ignition switch is in a position between "on" and "start" that is designated by the manufacturer as a check position. The purpose of this requirement is to ensure that the ability of the lamps to function is checked each time a driver starts a vehicle. Volkswagen requested in its petition that the standard be amended to require only that the function of indicator lamps be "easily verifiable by the driver in his normal driving position." According to Volkswagen, such a change would reduce manufacturer and consumer costs and would represent a further step toward harmonization of United States and European braking regulations.

Volkswagen offered several reasons why it does not believe an automatic check is necessary. That company noted that a substantial number of lamps other than the brake system indicator are illuminated upon turning the ignition to "start," including engine coolant temperature warning, battery charge indicator, oil pressure warning, seat belt telltale and exhaust emission control system indicator. According to the petitioner, the malfunction of a single indicator lamp could easily remain unnoticed during an automatic check.

Volkswagen also stated that only a marginal number of drivers recognize the automatic check sequence as a check of indicator lamp function. The petitioner stated that it is its opinion that information on the nature and condition for brake system indicator lamp function checks in owner's manuals provides meaningful instruction. According to Volkswagen, its European vehicles are equipped with a brake system indicator incorporating lamp function check by parking brake application. The petitioner stated that numerous European vehicles are similarly equipped and argued that such vehicles are not less safe than vehicles meeting United States requirements.

According to Volkswagen, a design incorporating parking brake application could reduce costs for that company by $1.10 per vehicle, not including manufacturer's or dealer's mark-up. The petitioner stated the potential for consumer cost savings could be even greater if manufacturers are given more latitude in choosing the means of lamp check function.

Volkswagen's petition made a brief reference to NHTSA's handling of a petition for inconsequential noncompliance concerning Standard No. 105, which was submitted by Honda after that company produced a significant number of vehicles which incorporated lamp function check by parking brake application and which did not meet that standard's automatic check requirements. In a notice published in the **Federal Register** (44 FR 70268) on December 6, 1979, the agency granted in part and denied in part Honda's petition. The agency granted the petition with respect to manual transmission vehicles. The agency noted that a vehicle with a manual transmission lacks the parking pawl provided by an automatic transmission and is therefore likely to be parked with the parking brake applied. The agency concluded that since under normal driving practice the parking brake is not

released until after the ignition is on and the engine started, the warning function would be provided under the usual sequence of events.

The agency originally denied the petition with respect to automatic transmission vehicles. The agency stated in the December 1979 notice that it believed that many drivers of automatic transmission vehicles do not apply the parking brake when the vehicle is at rest and that, therefore, few drivers of automatic transmission vehicles incorporating lamp function check by parking brake application would ever experience the warning light check. In a notice published in the Federal Register (49 FR 15046) on April 16, 1984, however, the agency granted an appeal by Honda of that denial. (The notice was published after receipt of Volkswagen's petition for rulemaking.) In support of its appeal, Honda had submitted data concerning the number of drivers of automatic transmission vehicles that use the parking brake, the number of drivers who understand the meaning of the brake warning light, and the life expectancy of the bulbs used by Honda. The agency concluded that since these particular vehicles had been in service for more than 6–8 years without evidence of a safety problem, the petitioner had met its burden of persuasion that the noncompliance was inconsequential as it related to motor vehicle safety.

After careful consideration of the issues raised by Volkswagen, NHTSA has decided to deny that company's petition for rulemaking. Since the brake warning indicator lamp informs the driver of brake failure, the agency continues to believe that it is important to ensure on a frequent and regular basis that the lamp is in working order. The agency believes this is best accomplished by the current requirement.

It should be noted that the specific amendment requested by Volkswagen is so broad as to raise questions of objectivity. However, the agency cannot agree, based on the data currently before it, that even a more limited amendment to permit lamp function check by parking brake application, as used by that company in Europe, would be appropriate. For example, the data presented by Honda show that 15–20 percent of Honda automatic transmission car owners do not use the parking brake on a regular or even infrequent basis. Thus, these drivers might rarely, if ever, experience the warning check.

Volkswagen also did not provide support for its assertion that drivers may fail to notice the malfunction of the brake warning indicator lamp as a result of a multitude of other lamps also being illuminated upon starting of the vehicle, or for its assumption that only a marginal number of drivers recognize the automatic check sequence as a check of the indicator lamp function. Again, based on Honda's survey, 12 percent of drivers were aware of the automatic bulb check function in their car. Even if Volkswagen were correct on these points, however, the agency does not believe that the appropriate response would be to simply eliminate the automatic check. It should be noted that most of the lamps other than the brake warning indicator lamp are not required by any Federal motor vehicle safety standard. A manufacturer may choose to remove some of these lamps from the "start" check function system and provide some other method of checking them. A manufacturer also has the option of locating the various lamps in such a way as to make it easier for the driver to notice the failure of the most important safety warning lamps. Further, if it is true that only a marginal number of drivers recognize the automatic check sequence as a check of the indicator lamp function, a manufacturer may help remedy that problem by providing that information in the owner's manual.

The agency considers this decision to be fully consistent with that reached with respect to Honda's petition for inconsequential noncompliance. The decision whether a manufacturer should be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act on the basis of inconsequentiality as related to motor vehicle safety, which must be made after a limited number of known vehicles have already been produced, obviously involves different considerations than a decision as to what requirements should be established for purposes of general applicability.

For the reasons set forth above, the agency denies Volkswagen's petition to amend Standard No. 105. At the same time, the agency desires to increase the percentage of drivers which understand the functions of the brake warning light and will consider the issue again as it develops its braking international harmonization proposal. In this regard, the agency is open to specific suggestions from the public and encourages the early submission of data or survey information on the subject.

(Secs. 103, 119 and 124, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 24, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–2292 Filed 1–29–85; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 41158–4158]

Regulations Governing the Taking and Importing of Marine Mammals

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

ACTION: Proposed rule.

SUMMARY: In response to a petition for rulemaking submitted by a member of the public, NOAA is proposing to modify the definition of "commercial fishing operation" in the Regulations Governing the Taking and Importing of Marine Mammals to include commercial passenger fishing vessels (CPFVs). This modification and the creation of a sixth gear category type, if promulgated, would allow CPFV owners or operators to apply for a general permit and certificates of inclusion to incidentally take mammals by nonlethal means and subject to other specific categorical restrictions during commercial sportfishing operations. No take resulting in the capture of, or in injury or death to marine mammals will be permitted under this proposed new general permit category.

DATES: Comments on the proposed regulations must be postmarked on or before March 18, 1985. Requests for a formal, on the record, public hearing on the matter (See Supplemental Information) must be sent by certified mail and postmarked on or before March 18, 1985.

ADDRESS: All comments and requests for a hearing should be submitted to the Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235. An Environmental Assessment is also available upon request.

FOR FURTHER INFORMATION CONTACT: Mr. K.R. Hollingshead (Marine Resources Management Specialist), 202–634–7529.

SUPPLEMENTARY INFORMATION:

Background

Section 101 of the Marine Mammal Protection Act (MMPA) established a

general moratorium on the taking and importation of marine mammals and marine mammal products. It also provides for certain exceptions to the moratorium. Section 101(a)(2) provides that:

> Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 104 subject to regulations prescribed by the Secretary in accordance with section 103. In any event, it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate . . .

In promulgating regulations implementing the MMPA, the term "commercial fishing operation" was defined as:

> The lawful harvesting of fish from the marine environment for profit and as part of an ongoing business enterprise. *Such term shall not include sportfishing activities whether or not carried out by charterboat or otherwise, and whether or not the fish so caught are subsequently sold.* (50 CFR 216.3) (Emphasis added).

On November 2, 1983, the Sportfishing Association of California (SAC) petitioned the NMFS as provided under 5 U.S.C. 553(e), requesting the above definition be modified to include their activities within a "commercial fishing operation." The SAC contends that the California sea lion (*Zalophus californianus*) population has increased from 20,000 animals 15 years ago to a population of over 80,000 animals today. They believe these sea lions are depredating the catch of their customers and impaling themselves on the baited fishing hooks. This increased depredation, they contend, diminishes their catch and will eventually mean economic disaster for the fleet.

As "commercial passenger fishing vessels," (CPFVs) the members of SAC currently do not qualify as commercial fishing operations under regulations governing the incidental take of marine mammals during commercial fishing operations (50 CFR 216.24). Therefore, they cannot secure certificates of inclusion which would allow them to prevent marine mammal/sportfishing interactions and protect the catch and gear of their customers from marine mammals. As a final point, the SAC notes that CPFVs currently qualify as a commercial fishing fleet under the NMFS' Fishing Vessel Obligation and Capital Construction Fund Programs. However, where fishing seasons, daily bag limits, annual quotas, or size limits differ between commercial and recreational fishermen in Federal regulations, CPFVs are treated as sportfishing operations.

On December 15, 1983, the NMFS published a notice of the receipt of the petition in the Federal Register (48 FR 55755–56) and invited public comment. During the 30-day comment period, 74 letters or postcards were received, 24 letters favored the petition and the remainder opposed the petition. Five letters contained substantive comments and are summarized below.

Information Received

The Friends of the Sea Lion were concerned that sportfishing crews under the modification would be able to lure sea lions off the rookeries with fish and then slaughter the animals. They believe the petition is a "carefully orchestrated plan to destroy seals and sea lions strictly for the benefit of sportfishing * * * "They contend that the problem is overfishing which depleted the fish stocks.

The Whale Center opposes the petition. They believe it is against the law to allow sportfishing activities to be considered as a commercial fishing operation. They contend that the MMPA states that the term "commercial fishing operation shall not include sportfishing activities * * * "

The Center for Environmental Education (CEE) and Friends of the Sea Otter have the following views: (1) The proposed modification is contrary to the intent of the Congress and beyond the scope of the MMPA, (2) the proposal is unwarranted economically, (3) the modification is too broad as it would allow recreational fishermen to kill or injure sea lions and (4) 77 percent of the fishermen interviewed by California Department of Fish and Game (CDF & G) personnel opposed shooting sea lions. The CEE recommended NMFS seek an amendment to the MMPA authorizing NMFS to grant permits and certificates of inclusion for party boats which would allow only acoustic harassment of the sea lions.

The Defenders of Wildlife believes that recreational fishing is a non-essential human activity conducted for man's indirect benefit. Their letter states that according to a recent survey, sportfishermen believe that sea lions have as much right as people to the resources. Defenders of Wildlife suggests that NMFS consider the possibility of separate rules for sportfishing operations which would allow charterboat operators to employ nonlethal, noninjurious methods to deter marine mammals and not allow the intentional wounding or killing of marine mammals.

The American Cetacean Society states that the issuance of permits for non-lethal harassment appears to be the best solution to the problem. These permits would protect the sea lions from baited hooks and ease tension and anger felt by the fishermen against the sea lions.

Discussion

Several commenters referred to two surveys conducted by the CDF & G under NMFS contracts. A review of these surveys would provide an insight into the fishery interaction problem. The two reports referred to are (1) Miller, D.J. *et al.* 1983, California Marine Mammal-Fishery Interaction Study: 1979–1981, NMFS SWFC Admin. Rept. LJ–83–13c; and (2) Miller, D.J. 1983, Coastal Marine Mammal Study, Annual Report for the period of July 1, 1981–June 30, 1982, NMFS SWFC Admin. Rept. LJ–83–21c. A synopsis follows.

There are 36 ports from which CPFVs operated in California in 1980, with 317 boats registered statewide. More than half of these boats operated out of southern California ports (Goleta to San Diego) with the greatest concentration at San Diego where 73 boats (23% of total) were located. Sampling in 1979 by personnel of the CDF & G indicated that there was no reported interaction with marine mammals and CPFVs from Avila northward. The 1979 data also indicated that the only sustained, significant depredation occurred near San Diego. Therefore, it could be anticipated that 73 to 150 boats might apply for certificates of inclusion if the proposal were promulgated.

The interactions between commercial sportfishing boats and marine mammals are limited almost exclusively to California sea lions. The sea lions affecting sportfishing off San Diego probably haul-out on the local breakwater rocks, buoys, and the Los Coronados Islands about 50 km south of San Diego. The persistent interaction with CPFVs is believed to be caused by a combination of modified behavior of the animals and a year-round presence of Pacific mackerel and Pacific bonito. CPFVs consistently chum with live bait and utilize the same fishing spots. Fishermen have been observed hand feeding sea lions and skippers have fed them to keep them away from fishing lines. These activities have probably intensified the behavioral conditioning of the animals to follow the boats to the fishing grounds.

A common complaint by vessel skippers is that the presence of sea lions frightens fish away from the proximity of the boat. Not only may the presence of sea lions lessen the take, but the skipper may be forced to change fishing locations more often than normal to lose

sea lions, resulting in additional fuel consumption and loss of fishing time. Skippers contend that increasing depredation by sea lions will discourage recreational fishermen from continuing to fish from CPFVs thereby resulting in increased financial difficulties for the vessel owner and crew. The loss of revenue due to fishermen discontinuing sportfishing has not been estimated.

Scholl, in his survey of attitudes of southern California sportfishermen towards marine mammals (Miller, 1983) found that 72 percent opposed shooting as a control measure but 64 percent would accept nonlethal control measures. Of the fishermen interviewed who had lost fish to sea lions (about 50 percent of the total), 77 percent accepted the nonlethal control of sea lions.

The economic value of the fish lost was determined by what fishermen would have to pay for the fish at a fresh fish market. The actual depredation rate off San Diego was about 2 percent of the fish caught, for all southern California it was less than 0.5 percent and off Baja California, 6.4 percent (Miller, 1983). The value of fish loss in southern California waters computed from definite loss figures in 1980 was $26,300–$28,100. An estimated $10,733 worth of gear was also lost due to depredation that year. The value of fish lost in Baja California was not calculated. Losses appear to be concentrated in the area from the Los Coronados Islands off Baja to just north of San Diego. The total mean value of fish and fishing gear lost due to California sea lions and harbor seals in all California sport and commercial fisheries in 1980 was estimated at $598,000.

The purpose of the exemption created by section 101(a)(2) of the MMPA was to ensure that commercial fishermen were not put out of business in situations where the interaction with and incidental take of marine mammals was unavoidable as long as every attempt to minimize the take was made and the stocks being taken were not depleted. As no mention is made on the status of CPFV activities in the legislative history of the MMPA, this reasoning seems equally valid when applied to those who earn their living operating CPFVs as it does to those who themselves "fish."

The Office of General Counsel of NOAA, in reviewing the legislative history of the MMPA and other relevant legislation, concluded that given the lack of a statutory definition, clear guidance in the legislative history, or a uniform approach to the definition of commercial fishing, the NMFS may amend its definition of "commercial fishing operation" under the MMPA regulations to include CPFV activities as long as any such definition is found by the NMFS to be consistent with the goals and purposes of the MMPA.

The MMPA has a two goal test for determining the number and kind of marine mammals which can be taken incidental to commercial fishing operations. The first test, the "disadvantage" test, requires the Secretary of Commerce to ensure that takings will not be to the disadvantage of the affected species and population stocks. Under this test, the Secretary, in conjunction with the promulgation of regulations, must publish statements on population levels and the expected impact of the proposed regulations on the optimum sustainable population of the affected species. These statements were made when the general permit system was developed in 1974 (39 FR 32317, September 5, 1974) and most recently updated on January 16, 1984 (49 FR 1924–1927). For this proposed rule, the required statements may be found below. It should be noted that an analysis of impacts has been conducted only on the relationship between the petitioner's fishery and California sea lions. If in the future, other CPFV fisheries apply for general permits, impact analysis will be conducted on those fisheries as part of the permit review process.

The second test, the "immediate goal" test of section 101(a)(2) requires that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

Modifying the definition of "commercial fishing operation" to include CPFVs would not in and of itself authorize the incidental take of marine mammals by this group of people. Rather, it would make them eligible to apply for an incidental take general permit and certificates of inclusion. The current general permit regulations (50 CFR 216.24) are fairly explicit: "A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage, or personal injury without inflicting death or injury to any marine mammal . . . . Only after all means permitted have been taken to deter a marine mammal from depredating the catch, damaging the gear, or causing personal injury, may the certificate holder injure or kill the animal causing the depredation or immediate damage or about to cause immediate personal injury . . ." However, "[a] *certificate holder shall not injure or kill any animal permitted to be killed under this paragraph unless the infliction of such damage is substantial and immediate and is actually being caused at the time such steps are taken.* In all cases, the burden is on the certificate holder to fully report and demonstrate that the animal was causing substantial and immediate damage or about to cause personal injury and that all possible steps to protect against such damage or injury as permitted . . . were taken and that such attempts failed." (Emphasis added).

However, in the case of CPFVs these existing general permit regulations do not completely address the unique issues which arise in attempting to resolve the problem of marine mammals interacting with passengers fishing from CPFVs.

Those issues are:

1. The individual crew members which operate CPFVs may rotate assignments among vessels depending on varying passenger loads and types of offshore fishing opportunities. Because of the relative state of flux in the vessel workforce, the most accountable individuals to whom certificates of inclusion could be issued would be the vessel owners and operators. However, it must be recognized that it will often be the designated crew members and not a specific certificate holder who will actually be "taking" marine mammals under a certificate of inclusion, if issued.

2. The actual catch and gear to be protected from predation or damage will, in most instances, not be those of an individual certificate holder, but those of the paid fishing passenger aboard the commercial vessel.

3. If problems resulting from marine mammal/sportfishing interactions aboard commercial passenger fishing vessels are to be effectively avoided, non-lethal, non-injurious methods to prevent actual physical contact between the marine mammals and the fishermen and their gear are needed.

For these reasons, in addition to modifying the definition of "commercial fishing operation" to include those CPFVs, the NMFS is proposing a new General Permit Category of Inclusion, new regulatory restrictions, and new certification requirements to resolve the problem of marine mammal interactions with sportfishermen aboard CPFVs. It should be noted in particular that only non-lethal, non-injurious methods will be considered by the Assistant Administrator for Fisheries for the purposes of deterring marine mammal/fishing interactions. *No take resulting in capture of or injury or death to marine mammals will be permitted under this proposed new General Permit Category (Category 6: Commercial Passenger Fishing Vessel).*

Permits and certificates of inclusion issued under these proposed regulations would not exempt certificate holders from other Federal, state and local licensing and safety requirements related to the use of devices approved by NMFS for harassing marine mammals.

In order for the NMFS to consider an application for a Category 6 general permit from CPFV applicants, if this rule is promulgated, a written request must be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. Written requests must be for a specific fishery within a specific geographic region and must completely address all information requests listed in 50 CFR 216.24(b)(2).

Upon receipt of a signed application, the Assistant Administrator will determine the adequacy and completeness of the request and in that connection may require elaboration or further information which he deems to be necessary. If the application is found to be adequate, the NMFS will invite public comment on the request through publication in the **Federal Register.**

After a thirty-day comment period, the Assistant Administrator will determine, based upon public comments received and on the best scientific evidence available, whether the proposed action is consistent with the policies and purposes of the MMPA and whether the granting of the general permit is necessary to reduce interactions between marine mammals and CPFV activities. If this determination can be made, the Assistant Administrator will issue a Category 6 General Permit subject to conditions contained therein.

General Permit Conditions

1. A certificate holder or a crew member aboard the certificate holder's vessel may take marine mammals within a specified limited geographic area so long as the taking is an incidental occurrence in the course of active sportfishing by paid passengers on a CPFV.

2. A certificate holder or designated representative aboard the CPFV may use only non-lethal, non-injurious methods (as identified and approved by the Assistant Administrator) as are necessary to prevent marine mammal/sportfishing interaction or to protect his passengers' catch or gear from depredation or damage, without inflicting death or injury to a marine mammal.

3. Applicants for certificates of inclusion will be required to submit copies of certification for carrying passengers or other applicable licenses or documentation.

4. All certificate holders will maintain logs of incidental take of marine mammals in such form as prescribed by the Assistant Administrator and may be required to display a decal or flag indicating the vessel has been issued a certificate of inclusion.

5. No takings will be authorized within 500 yards of known pinniped rookeries or haul-out sites.

6. All operators must ensure the safe use of the approved methods for preventing marine mammal/sportfishing interaction and must satisfactorily complete such training as may be required by the Assistant Administrator as a condition of the applicable general permit in order to obtain their certificate of inclusion.

7. Failure to comply with the provisions of the general permit or certificate of inclusion including, but not limited to, failure to submit to an inspection of the vessel, marine mammal logs and required gear, upon demand by an authorized Federal enforcement agent, or failure to adhere to the provisions of the regulations will subject the certificate holder to a revocation of his certificate and also subject the certificate holder, vessel owner, and/or master to the penalties provided for under the MMPA.

Required Statements

Section 103(d) of the MMPA requires the publication of the following statements: (a) A statement on the estimated existing levels of the species and population stocks of the marine mammals concerned; (b) a statement of the expected impact on the optimum sustainable population (OSP) of such species or population stocks; (c) a statement describing the evidence before the agency; and (d) any studies made by or for the agency and any recommendations made by or for the agency or Marine Mammal Commission, if any. The first two required statements are satisfied by the following:

CALIFORNIA SEA LION

Location	Present population	Present OSP status	OSP status in 1969
California, Oregon, Washington	74,000	Within	Within.
Mexico	83,000	do	Do.

The California Sea Lion (Zalophus californianus)

There are three separate populations of *Zalophus* which correspond with the three subspecies; *Z. c. californianus* (coastal western North America); *Z. c. japonicus* (Sea of Japan, possibly extinct); and *Z. c. wollebaeki* (Galapagos Islands). The Galapagos Island population is estimated to be 20,000 animals.

The breeding range of *Z. c. californianus* extends from the Gulf of California and Cape San Lucus, Baja California north along the Pacific coast to San Miguel Island, California. A few pups are born on small islands further north, including the Farallon Islands off the coast of central California. The total pupulation is estimated at 157,000 of which about 74,000 are on the U.S. coast (DeMaster, 1983) and 83,000 are on the Mexican coast (LeBeouf *et al.*, 1983).

The number of *Zalophus* appear to have increased in the last few decades and a northward range expansion has occurred. The California Channel Islands have been censused rather regularly in the past fifty years and the population is known to have expanded considerably during that time in both numbers and range. An assessment of the Sam Miguel Island population indicates that are least that Island's sea lion population is past the maximum net productivity level (the lower level of OSP) and is exhibiting a detectable amount of growth rate retardation due to density dependent effects (DeMaster *et al.*, 1982). As many as 14,000 animals may be found in northern California, 2,500 in Oregon, 500 in Washington, and 1,000 in British Columbia, (Mate, 1979), although many are migrants from southern California.

During the nonbreeding season, (August-May) male California sea lions migrate north as far as British Columbia. Most males leave the breeding colonies, including Mexican rookeries at the end of the breeding season and move north. As many as 4,000 move northward out of California waters to winter off Oregon, Washington, and southern British Columbia. The movement of females after the breeding season is not well documented. It has been suggested that the females and their offspring stay near the rookeries until later in the non-breeding season and then move south into Mexican waters.

Interactions between California sea lions and fisheries can be divided into two types of competition: Predation on free-swimming prey allegedly reducing the population of commercially important prey, and predation on previously caught fish with or without concurrent gear damage. Although California sea lions are opportunistic feeders that consume more than 20 species of fish and invertebrates, the majority of their diet is made up of squid, anchovies, hake, and rockfish

(Heath and Francis, 1983). No conclusions have been reached on the allegations that the increased population size of California sea lions has caused the reduction of populations of commercial stocks of fish.

It is estimated that an average of approximately 1,500 California seal lions are killed annually due to fishery interactions in California. About 1,160 deaths occur as a result of the ocean gillnet fishery and 300 occur in the salmon troll fishery (Miller *et al.*, 1983). The trawl and round haul fisheries account for most of the remainder of fishery related mortalities. A take of 1,500 is about 2 percent of the U.S. population of California seal lions. Data taken on San Miguel Island rookery which comprises 52 percent of the southern California Bight population indicate that the population is within its range of OSP and has had an annual rate of increase of five percent between 1971 and 1981 (DeMaster *et al.*, 1982). Multiplying the growth rate of the San Miguel Island rookery by the published estimate of the population size produces an estimate of recruitment of 4,500 to 6,000 sea lions. This estimate indicates that the population is able to sustain the expectedc level of mortality and is not being disadvantaged by incidental taking in commercial fishing operations. As the incidental taking of California sea lions by the petitioner (SAC) would be limited to non-injurious harassment such as seal bombs, cracker bombs and acoustic devices and no mortality is anticipated, the California sea lion is not expected to be disadvantaged by the proposed action.

The second two statements required by section 103(d) of the MMPA are satisfied by the following list:

1. Bonnell, M.L., B.J. LeBeouf, M.O. Pierson, D.H. Dettman, D.G. Farrens, and C.B. Heath. 1978. Summary of marine mammal and seabird surveys of the southern California Bight area, 1975–1978. Vol. III, Part I: Report to BLM Contract No. AA-550-CT-7-36. 535 pp.

2. ———, R.F. Gantt, and D.J. Larsen. 1980. Pinnipeds of the southern California Bight. *In:* Marine Mammal and Seabird Surveys of the Southern California Bight Area, 1975–1978. Vol. 3- Investigator's Reports, Part 1 NTIS PB81-248-71.

3. DeMaster, D.P. 1983. Annual consumption of northern elephant seals and California sea lions in the California current. CALCOFI Abstracts October 1983.

4. DeMaster, D.P., D.J. Miller *et al.* 1982. Assessment of California sea lion fishery interactions *In:* Marine Mammals: Conflicts with Fisheries, other Management Problems and Research Needs. Trans. 47th North American Wildlife and National Resources Conference. pp 253–264.

5. Heath, Carolyn B. and J.M. Francis. 1983. Population dynamics and feeding ecology of the California sea lion with applications for management. Southwest Fisheries Center, NMFS Admin. Rept. LJ-83-04c. 48 pp.

6. LeBeouf, B. *et al.* 1983. Size and distribution of California sea lion populations in Mexico. Proc. California Acad. Sci. 43(7):77–85.

7. Mate, Bruce. 1979. California sea lion. *In:* FAO, Mammals in the Seas. Vol. II. Pinniped Species Summaries and Reports on Sirenians. Rome, Italy. pp 5–8.

8. Miller, Daniel J. 1983. Coastal marine mammal study annual report for the period of July 1, 1981–June 30, 1982. Southwest Fisheries Center, NMFS. Admin. Rept. LJ 83-21c.

9. Miller, Daniel J., Michael J. Herder, and John P. Scholl. 1983. California marine mammal—fishery interaction study 1979–1981. Southwest Fisheries Center, NMFS. Admin. Rept. LJ 83-13c.

10. National Marine Fisheries Service. 1980. A Report Based on the Workshop on Stock Assessment and Incidental Take of Marine Mammals Involved in Commercial Fishing Operations. 101 pp.

Hearing

In accordance with Section 103(d), these regulations must be made on the record after opportunity for an agency hearing. If a request for a hearing is made in a timely manner (see **DATES**) a hearing will be held later this year in San Diego, CA. A separate **Federal Register** notice will be published regarding time, date, and location of the hearings and notification by persons interested in participating in this hearing.

Classification

The NMFS has determined that the proposed modification to the definition of "commercial fishing operation" as found at 50 CFR 216.3 and the creation of a sixth category of gear type will have no impact on the human environment. The NMFS has prepared an Environmental Assessment (EA) on the proposed regulation. The finding of that EA was that no significant impact on the human environment would occur from these changes and that no Environmental Impact Statement is required. The EA is available on request (see **ADDRESSES**).

The NOAA Administrator has determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The estimated economic impact is expected to result in a minor positive benefit for those U.S. charterboat fishermen that apply for and receive certificates of inclusion under a general permit because it will allow for improved fishing conditions and result in increased revenue for vessel owners. The NMFS has prepared a regulatory impact review which concludes that this rule will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or government agencies; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of this review is available on request (see **ADDRESSES**).

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the modification to the definition "commercial fishing operation" to include CPFVs will not have a significant economic impact on a substantial number of small entities, because the impact will be limited to less than 200 small entities and the impact if any, will be positive as it will improve fishing conditions for their clients and result in increased revenue for vessel owners. However the monetary benefit can not be calculated at this time. Therefore, a regulatory flexibility analysis was not prepared.

The collection of information for general permits and certificates of inclusion has been approved by the Office of Management and Budget under OMB No. 0648-0083. As this proposed modification, if implemented is expected to increase the number of applicants by approximately 150, this amendment to an existing approved information collection has been submitted to OMB for review.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Marine Mammals, Penalties, Reporting, and recordkeeping requirements, Transportation.

Dated: January 25, 1985.

William G. Gordon,

Assistant Administrator for Fisheries National Marine Fisheries, Service.

For the reasons set forth in the preamble, 50 CFR Part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for Part 216 reads as follows:

Authority: 16 U.S.C. 1361–1407.

2. Section 216.3 is amended by revising the definition of "commercial fishing operation" and adding in alphabetical order new definitions for "Active sportfishing" and "Commercial passenger fishing vessel" to read as follows:

§ 216.3 Definitions.

* * * * *

"Active sportfishing" means paying passengers have their terminal fishing gear (lures, hooks, etc.) in the water in an attempt to catch fish or in the case of fishing involving chumming, fishing is considered to be in progress from the instant fish have been sighted taking bait (boiling) during that chumming process.

"Commercial fishing operation" means the lawful harvesting of fish from the marine environment for profit as part of an ongoing business enterprise. Such terms shall include licensed commercial passenger fishing vessel (as defined) activities, but no other sportfishing activities, whether or not the fish so caught are subsequently sold.

"Commercial passenger fishing vessel" means any vessel licensed for commercial passenger fishing purposes within the State out of which it is operating and from which, while under charter or hire, persons are legally permitted to conduct sportfishing activities.

* * * * *

3. Section 216.24 is amended by revising paragraphs (b)(1)(v), (c)(2), (c)(4)(i) introductory text, and (c)(6)(i)(A) and adding paragraphs (b)(1)(vi) and (d)(6) to read as follows:

§ 216.24 Taking and related acts incidental to commerical fishing operations.

* * * * *

(b) * * *

(1) * * *

(v) *Category 5: Other gear.* Commerical fishing operations utilizing trolling, gill nets, hook and line gear, and any gear not classified under paragraph (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(iv), or (b)(1)(vi) of this section.

(vi) *Category 6: Commercial passenger fishing vessel operation.* Commercial fishing operations from a commercial passenger fishing vessel for the purpose of active sportfishing as defined in section 216.3.

* * * * *

(c) * * *

(2) *Operator's certificate of inclusion.* The person in charge of and actually controlling fishing operations (hereinafter referred to as the operator) on any vessel engaged in commercial fishing operations for which a Category 2 or Category 6 general permit is required under this subpart, must be the holder of a valid operator's certificate of inclusion. These certificates are not transferable and will be valid only on any vessel having a valid vessel certificate of inclusion for the same Category. In order to receive a certification of inclusion, the operator must have satisfactorily completed required training. An operator's certificate of inclusion must be renewed annually.

* * * * *

(4) * * *

(i) Category 1, 3, 4, 5, and 6 applications:

* * * * *

(6) * * *

(i) * * *

(A) Categories 1: Towed or dragged gear; 3: Encircling gear, purse seining not involving the intentional taking of marine mammals; 4: Stationary gear; 5: Other gear; and 6: Commercial passenger fishing vessel.—$10.00

* * * * *

(d) * * *

(6) Commercial passenger fishing vessels (CPFV).

(i) A certificate holder aboard the vessel may take marine mammals so long as the taking is limited to harassment and is an incidental occurance in the course of the active sportfishing subject to the following restrictions (ii–vii).

(ii) Takings must not occur within 500 yards of a pinniped rookery or haul-out site.

(iii) A certificate holder aboard the CPFV must use only those non-lethal, non-injurious methods not including capture as approved previously by the Assistance Administrator for Fisheries for taking marine mammals.

(iv) Takings are allowed only to prevent imminent marine mammal aproaches to the vessel while engaged in active sportfishing or to protect a passenger's catch or gear from depredation or damage, without inflicting death or injury to any marine mammal.

(v) All certificate holders will maintain logs of incidental take of marine mammals in such form as prescribed by the Assistant Administrator for Fisheries.

(vi) All operators must satisfactorily complete such training as may be required by the Assistant Administrator for Fisheries.

(vii) Failure to comply with the provisions of the general permit or certificate of inclusion including, but not limited to, failure to submit to an inspection of the vessel, marine mammal logs and required gear, upon demand by an authorized Federal enforcement agent, or failure to adhere to the provisions of these regulations will subject the certificate holder to a revocation of this certificate and also subject the certificate holder, vessel owner, and/or master to the penalties provided for under the Act.

* * * * *

[FR Doc. 85–2327 Filed 1–29–85; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 50, No. 20
Wednesday, January 30, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 25, 1985.

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 404-W Admin. Bldg., Washington, D.C. 20250 (202) 447-2118.

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 for 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
FmHA Communication Survey
One time
Individuals or households; Farms; 1,080 responses; 1,160 hours; not applicable under 3504(h)
Karen King (202) 475-5306

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85-2384 Filed 1-29-85; 8:45 am]
BILLING CODE 3410-01-M

Soil Conservation Service

Prescott Park Flood Prevention RC&D Measure, New Hampshire; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Prescott Park Flood Prevention RC&D Measure, Belknap County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. David L. Mussulman, State Conservationist, Soil Conservation Service, Federal Building, Durham, New Hampshire, 03824, telephone 603-868-7481.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. David L. Mussulman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to reduce or eliminate the flooding of a community recreation facility. The planned works of improvement include the construction of approximately 1185 linear feet of low dike to prevent the adjacent stream from overflowing the recreation area and facilities.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environment Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. David L. Mussulman.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Executive Order 12372 Intergovernmental Review of Federal Programs regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 18, 1985.

David L. Mussulman,
State Conservationist.

[FR Doc. 85-2360 Filed 1-29-85; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Short Supply Determinations of Steel Pipe and Tube; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of requests for short supply determinations under Article 8 of the U.S.-EEC Pipe and Tube Arrangement with respect to certain welded carbon steel rectangular tubing with a wall thickness not greater than 3.2mm and not less than 1.5mm and with an outside dimension across any flat side of not less than 10mm but not over 90mm; seamless line pipe, grade 5L X-56 with an outside diameter of 26 inches; and line pipe, grade 5L X-56 with an outside diameter of 16 inches.

EFFECTIVE DATE: Comments must be submitted no later than February 7, 1985.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Agreements Compliance Division, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Agreements Compliance Division, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., Washington, DC 20230, Room 3087B, (202) 377-4036.

SUPPLEMENTARY INFORMATION: On January 10, 1985, the United States (U.S.) and European Economic Community (EEC) concluded a clarification of the Pipe and Tube Arrangement agreed to on October 21, 1982. The January 10 clarification provides in Article 8 that "* * * the U.S. shall accept exports of pipes and tubes in addition to those permitted under sections 1 and 2 where a shortage of supply is identified, i.e., where the U.S. industry is unable to meet demand in the United States for a particular product." Under the terms of Article 8 the Department "* * * shall make a decision under this section on the basis of objective evidence from all relevant sources."

We have received requests for acceptance under short supply provisions for the following products:

1. Welded carbon steel rectangular tubing, with a wall thickness not greater than 3.2mm and not less than 1.5mm, and with an outside dimension across any flat side not less than 10mm (0.4 inch) but not over 90mm (3.6 inches).

2. Seamless line pipe grade 5L X-56 with a outside diameter of 26 inches.

3. Line pipe grade 5L X-65 with an outside diameter of 16 inches.

Any party interested in commenting on these requests should send written comments as soon as possible, and no later than February 7, 1985. Comments should focus on the economic factors involved in granting or denying these requests.

Commerce will maintain these requests and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of their submission and also submit with it a non-confidential submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 24, 1985.

[FR Doc. 85-2296 Filed 1-29-85; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Chlor/Alkali Producers International ("Chlor/Alkali"). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on these certificates. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificates of Review, application number 84-00034."

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131, or Eleanor Roberts Lewis Assistant General Counsel for Trade Development, 202-377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates or review. A The regulations implementing the act (the "Regulations") are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant; and

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1786 (January 11, 1985).

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from Chlor/Alkali on October 30, 1984. The application was deemed submitted on November 1, 1984. A summary of the application was published in the Federal Register on November 15, 1984 (49 FR 45203 (1984)).

Description of Certified Conduct

Based on analysis of the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by Chlor-Alkali meet the four standards of the Act:

Chlor/Alkali—Application No. 84-00034

Export Trade

Caustic soda and chlorine.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. Each member may independently dedicate the quantity of caustic soda and chlorine that it will make available to Chlor/Alkali for sale in the Export Markets.

2. Chlor/Alkali and the members may enter into agreements wherein Chlor/Alkali agrees to act as the members' exclusive export sales representative for the quantity of caustic soda and chlorine dedicated by each member for sale in the Export Markets. In such agreements, (i) Chlor/Alkali may agree not to represent any other supplier for sales in the Export Markets and (ii) the members may agree that they will export the quantity dedicated for sale in the Export Markets exclusively through Chlor/Alkali, and that they will not export independently of Chlor/Alkali either directly or through other export intermediaries.

3. The members may refuse to deal with export intermediaries other than Chlor/Alkali.

4. Chlor/Alkali may, for itself and on behalf of the members, by agreement with its distributors or agents in the Export Markets or with the members' distributors or agents in the Export Markets, or on the basis of its own determination:

a. establish the prices at which it will sell caustic soda and chlorine in the Export Markets,

b. establish the quantity of caustic soda and chlorine it will sell in the Export Markets,

c. allocate the Export Markets or customers in the Export Markets among the members' distributors or agents and/or its distributors or agents, and

d. refuse to quote prices for, or to market or sell, caustic soda and chlorine to its or its members' competitors in the Export Markets.

5. Chlor/Alkali and the members may agree on the quantities and prices at which it and its members may sell caustic soda and chlorine in the Export Markets, and may also agree on territorial and customer allocations in the Export Markets among the members.

6. Chlor/Alkali may enter into nonexclusive agreements appointing export intermediaries for the sale of caustic soda and chlorine in the Export Markets. Such agreements may contain the price, quantity, territorial, and customer restrictions for the Export Markets contained in paragraph 4 above.

7. Chlor/Alkali and the members may exchange and discuss the following types of information:

a. information about sales and marketing efforts, activities and opportunities for caustic soda and chololrine for and in Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for caustic soda and chlorine, customary terms of sale in the Export Markets, prices and availability of caustic soda and chlorine from competitors for sales in the Export Markets, and specifications for caustic soda and chlorine by customers in the Export Markets;

b. information about what quality and quantity of, and from where and when, caustic soda and chlorine would be available from the members for export;

c. information about terms and conditions of contracts for sales in the export Markets to be considered and/or bid on by Chlor/Alkali and the members;

d. information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales documentation and financing, and customs, duties and taxes;

e. information about U.S. and foreign legislation and regulations affecting sales for the Export Markets; and

f. information about Chlor/Alkali's operations, including without limitation, sales and distribution networks established by Chlor/Alkali in the Export Markets;

Provided that, (1) Chlor/Alkali must keep copies of all information that is exchanged in written form and (2) in all such discussions among Chlor/Alkali and the members, legal counsel must be present and must maintain an accurate and complete record of all matters discussed.

8. Chlor/Alkali and the members may prescribe the following conditions for withdrawal of coventurers from Chlor/Alkali and for admission of new coventurers:

a. A coventurer may withdraw from Chlor/Alkali as of the last day of any calendar quarter by giving 180 days' prior written notice to the remaining coventurers. The remaining coventurers shall then have the option to terminate Chlor/Alkali or to pay the withdrawing coventurer the value of its capital account, as adjusted, on the date of its withdrawal.

b. Additional coventurers may be admitted to Chlor/Alkali from time to time upon receiving a majority vote of Chlor/Alkali's Management Board, executing a counterpart of the Chlor/Alkali's Joint Venture Agreement and making such capital contribution in cash as is directed by Chlor/Alkali's Management Board.

Definitions

(a) "Coventurer" means a participant in the Chlor/Alkali joint venture that has been duly admitted into the joint venture in accordance with the joint venture agreement, its charter or bylaws, and has been certified by the Department of Commerce, with the concurrence of the Department of Justice, to be a member.

(b) "Export intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of such export trade services as consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign, purchasers, warehousing, foreign exchange, financing, and taking title to goods.

(c) "Member" means "member" as defined in section 325.2(1) of the Regulations.

(d) "Supplier" means a person who produces, provides, or sells caustic soda or chlorine.

Members

The B.F. Goodrich Company, Kaiser Aluminum and Chemical Corporation, Occidental Chemical Corporation, and Vulcan Materials Company are each a member so long as it remains a coventurer.

Terms and Conditions of Certificate

(a) Chlor/Alkali shall notify the Department of Commerce of a withdrawal of a coventurer from Chlor/Alkali within thirty (30) days of such withdrawal.

(b) Chlor/Alkali shall not permit any supplier to become a coventurer in Chlor/Alkali unless such supplier has been certified through amendment to this certificate to be a member of Chlor/Alkali. The preceding sentence does not prohibit discussions that Chlor/Alkali might have held or might hold with the supplier about the possibility of its becoming a coventurer, but such discussions would be subject to the normal application of the antitrust laws.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(b), which

requires the Department of Commerce to publish in the Federal Register a summary of each certificate issued. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling 202–377–3031.

Dated: January 25, 1985.

Richard H. Shay,

Acting General Counsel.

[FR Doc. 85–2396 Filed 1–29–85; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Partially Closed Meeting

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

Time and date: The meeting will convene January 30, 1985, 8:30 a.m. and adjourn at approximately 4:00 p.m., January 31, 1985.

Place: Capitol Holiday Inn, 550 C Street, SW, Washington, DC.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Dpeartment's responsibilities for living marine resources and on means to facilitate cooperation between public and private interests in these matters.

Matters To Be Considered

Portions Open to the Public

January 30, 1985 (8:30 to 11:30 a.m.)
Legislative Initiatives.
January 31, 1985 (8:30 a.m. to 12:00 a.m.)
MAFAC subcommittee reports.

Portions Closed to the Public

January 30, 1985 (1:30 to 5:00 p.m.)
Magnuson Act.
January 31, 1985 (1:30 to 4:00 p.m.)
Current and future year budget/program priorities.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Administration of the Department of Commerce, with concurrence of the General Counsel, formally determine on January 24, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items to be covered during the closed sessions may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

For further information or copies of minutes contact: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235. Telephone: (202) 634–9563 or 634–7220.

William G. Gordon,

Assistant Administrator for Fisheries.

January 16, 1985.

[FR Doc. 85–2328 Filed 1–29–85; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Intent to Grant Exclusive Patent Licenses

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to E. I. duPont de Nemours and Company, having an office in Wilmington, Delaware, an exclusive right to practice the invention embodied in U.S. Patent No. 4,468,466, "Silver Stains for Protein in Gels—A Modified Procedure." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C., 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85–2502 Filed 1–29–85; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Ada Board; Meeting

A meeting of the Ada Board will be held Tuesday, 26 February 1985 from 10:00 a.m. to 6:00 p.m. in the San Jose Room, at the Sainte Claire Hilton Hotel in San Jose, California.

For further information contact: Dr. Robert F. Mathis, Director, Ada Joint Program Office, (202) 694–0209.

Patricia H. Means,

Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85–2346 Filed 1–29–85; 8:45 am]

BILLING CODE 3810-01-M

Ada Board; Meeting

A meeting of the Validations Subcommittee of the Ada Board will be held 24 February 1985 from 6:00 p.m. to 10:00 p.m. in the San Jose Room, at the Sainte Claire Hilton Hotel in San Jose, California.

For Further Information Contact: Dr. Robert F. Mathis, Director, Ada Joint Program Office (202) 694–0209.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 25, 1985.

[FR Doc. 85–2347 Filed 1–29–85; 8:45 am]

BILLING CODE 3810-01-M

Language Maintenance Committee; Meeting

A meeting of the Language Maintenance Committee of the Ada Board will be held 25 and 27 February 1985 from 9:00 a.m. to 5:00 p.m. both days in the San Jose Room, at the Sainte Claire Hilton Hotel in San Jose, California.

For Further Information Contact: Dr. Robert F. Mathis, Director, Ada Joint Program Office, (202) 694–0209.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 25, 1985.

[FR Doc. 85–2348 Filed 1–29–85; 8:45 am]

BILLING CODE 3810-01-M

Ada Board; Meeting

A meeting of the Environments Subcommittee of the Ada Board will be held 25 February 1985 from 6:00 p.m. to 10:00 p.m. in the San Jose Room, at the Sainte Claire Hilton Hotel in San Jose, California.

For Further Information Contact: Dr. Robert F. Mathis, Director, Ada Joint Program Office, (202) 694–0209.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

January 25, 1985.

[FR Doc. 85–2349 Filed 1–29–85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Acceptance of Group Application Under Pub. L. 95–202 and DODD 1000.20—Occupational Therapists Serving as Civilians in the Army During World War II

Under the provisions of section 401 of Pub. L. 95–202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Occupational Therapists Serving as Civilians in the Army During World War II. Persons with documentation or other information useful in determining whether or not the service of this group was equivalent to active military service are encourage to submit such documentation or information within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Lt. Col. Dandar, telephone number (202) 692–4744.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–2359 Filed 1–29–85; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Meeting Cancellation

The following meeting of the Army Science Board Ad Hoc Subgroup on U.S. Army Atmospheric Sciences Laboratory Effectiveness Review which was originally announced in the **Federal Register** issue of Tuesday, 22 January 1985 (50FR2847), FR Doc #85–1641, has been cancelled:

Meeting dates: Thursday & Friday, 7 & 8 February 1985.

Place: U.S. Army Atmospheric Sciences Laboratory, White Sands Missile Range, New Mexico.

Sally A. Warner,

Administrative Officer Army Science Board.

[FR Doc. 85–2401 Filed 1–25–85; 4:47 pm]

BILLING CODE 3710-08-M

Army Science Board, Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 15 February thru Friday, 22 February 1985.

Times of Meeting: 0830–1700 hours, each day (Closed).

Place: U.S. Army Infantry School, Ft. Benning, Georgia.

Agenda: The Army Science Board Ad Hoc Subgroup on the U.S. Army Advanced Antitank Weapon System—Medium (AAWS–M) will meet to provide an independent assessment of the Army's proposed plan to satisfy the requirement of the AAWS–M. The Subgroup will receive classified command briefings and conduct splinter sessions in order to surface key issues and potential risks. A follow-on meeting will be convened to assess the overall program status. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–2400 Filed 1–29–85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–84–027; OFP Case No. 55119–9193–03–12]

Acceptance of Petition for Exemption and Availability of Certification by General Motors Corp. for its Shreveport, Louisiana Assembly Plant, and Notice and Proposed Rescission of an Order Granting a Permanent Fuel Mixtures Exemption for the Same Facility

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by General Motors Corporation for its Shreveport, Louisiana Assembly Plant, and Notice and Proposed Rescission of an Order Granting a Permanent Fuel Mixtures Exemption for the Same Facility.

On September 28, 1984, General Motors Corporation (GMC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum for a boiler located at its plant in Shreveport, Louisiana. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the exemption based on the lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are found at 10 CFR 503.32.

The petition for exemption based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum was filed simultaneously with a request tht ERA, pursuant to 10 CFR

501.100 *et seq.*, rescind a permanent 25 percent fuel mixtures exemption granted by ERA on June 15, 1981, applicable to Boiler No. 3.[1] GMC's Request for Rescission is explicitly contingent upon the granting by ERA of the permanent exemption for Boiler No. 3 pursuant to 10 CFR 503.32. Thus, if ERA determines to deny GMC's petition pursuant to 10 CFR 503.32, ERA will treat the instant Request for Rescission as withdrawn. However, if ERA grants the petition pursuant to 10 CFR 503.32, the Rescission Order will be effective contemporaneously.

The project for which the exemption is requested is a boiler located at GMC's Shreveport plant. The unit, which is already in place, is designated as Boiler No. 3, and will burn natural gas.

ERA has determined that the petition for exemption is sufficient to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3 and 501.63. ERA retains the right, however, to request additional relevant information from GMC at any time during the proceeding, as circumstances may require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested prsons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. Also ERA is hereby giving notice to all parties to the original fuel mixtures exemption proceeding of their right, pursuant to 10 CFR 501.101(d), to file a written response to ERA's proposed rescission of the Order granting a permanent fuel mixtures exemption during the 45-day public comment period. The public file containing a copy of this Notice of Acceptance and Availability of Certification and the Notice of Proposed Rescission, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefore, would be published in the **Federal Register.**

DATES: Written comments are due on or before March 18, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuel Program, Room GA–073M, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA–FC–84–027 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–073, Washington, DC 20585, Phone (202) 252–6002;

Steven E. Ferguson, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Phone (202) 252–6947.

SUPPLEMENTARY INFORMATION: Title II of FUA prohibits the use of natural gas or petroleum in new MFBI's that consist of a boiler unless an exemption for such use has been granted by ERA. GMC has filed a petition with ERA requesting a permanent exemption to permit the use of natural gas as the primary energy source for Boiler No. 3, which is already in place at GMC's Shreveport assembly plant.

Boiler No. 3 is one of three boilers in operation at the Shreveport plant. GMC initially obtained a permanent 25 percent fuel mixtures exemption for Boiler No. 3, as well as Boiler Nos. 1 and 2, at the Shreveport plant. Granting the requested exemption would permit efficient operation of each unit, reduce maintenance costs, reduce emissions, increase the useful life of the unit, and conserve energy.

Accordingly, GMC requests that it be granted a permanent exemption permitting it to operate Boiler No. 3 on natural gas for up to 1500 full load equivalent hours on an annual basis. The exemption, if granted, would substitute for the permanent 25 percent fuel mixtures exemption currently applicable to Boiler No. 3. In this connection, GMC is filing simultaneously with this petition a Request for Rescission of the permanent 25 percent fuel mixtures exemption applicable to Boiler No. 3. GMC's Request for Rescission is explicitly contingent on the grant by DOE of GMC's petition for the new exemption for Boiler No. 3. GMC's Request for Rescission is based on its determination that significantly changed circumstances as defined in 10 CFR 501.102(b) exist with respect to the applicability of the fuel mixtures exemption to GMC.

Exemption Petition: Section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32 provide for a permanent exemption for lack of alternate fuel supplies at a cost which does not substantially exceed the cost of using imported petroleum. In accordance with the requirements of § 503.32(c), GMC has certified that:

1. The unit will be operated less than 1500 full load hours annually;

2. The use of mixtures is not feasible, as required under § 503.9; and

3. Prior to operation, all applicable environmental certifications will be secured.

The last certification is required under 10 CFR 503.13(b)(1). In further compliance with that section, GMC submitted and certified as accurate the information required by the environmental checklist in § 503.13(b)(2).

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7976) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. GMC has certified that it will secure all applicable permits and approvals prior to commencement of operation of the unit under exemption. DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by GMC pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on GMC's exemption that the grant or denial of the exemption will significantly effect the quality of the human environment, it is expected that

[1] OFC Case No. 55119–9193–01, 02, 03–12; 46 FR 32305 (June 22, 1981) as modified by 47 FR 43774 (October 4, 1982).

no additional environmental review will be required.

Pursuant to 10 CFR 501.3, ERA hereby accepts GMC's petition for a permanent exemption for lack of alternate fuel supplies at a cost which does not substantially exceed the cost of using imported petroleum for Boiler No. 3. ERA retains the right, however, to request additional relevant information at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition for exemption by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Rescission Request: ERA hereby accepts GMC's Request for Rescission of Permanent 25 percent Fuel Mixtures Exemption Applicable to Boiler No. 3. GMC's request for rescission is based on its determination that significantly changed circumstances as defined in 10 CFR 501.103(b) exist with respect to the applicability of the fuel mixtures exemption to GMC. Accordingly, pursuant to 10 CFR 501.101(f), GMC has submitted documentation supporting its Request for Rescission. It was originally anticipated that operation of each of the three boilers above a given steaming capacity would be necessary at various times to meet the then-anticipated demand at the plant. However, subsequent to commencement of commercial operations, GMC has determined that the plant would be operated more efficiently if Boiler No. 3 were permitted to operate with a 1500 hour full load exemption.

Based on GMC's submittal, ERA is proposing to rescind the fuel mixtures exemption for Boiler No. 3. If ERA receives no response within the 45-day public comment period, the Rescission Order shall become final as proposed, contingent on ERA's granting of GMC's petition for exemption pursuant to 10 CFR 503.32.

Issued in Washington, DC, on January 10, 1985.

Robert L. Davies,

Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-2306 Filed 1-29-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Uunder Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the following collections to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Monday, December 31, 1984 (49 FR 50769).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., January 24, 1985.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
FERC-505	Application for License for Water Power Projects 5 Megawatts or Less.	Extension	On occasion	Mandatory	Individuals, businesses, States and municipalities.	159	79,500	To carry out the requirements of Sections 4(e) and 9 of the Federal Power Act. These sections direct the Commission to issue licenses for the purpose of constructing, operating and maintaining hydropower projects as defined in the Act.
FERC-541	Gas Pipeline Certificate: Curtailment Plan.	Extension	On occasion	Mandatory	Gas pipelines	65	93,600	The filings are required by Section 4(f) of the Natural Gas Act for changes in service occasioned by a pipeline company's inability to meet its existing certificate or contract obligation, and to meet the requirements of Title IV of the NGPA.
EIA-254	Semi-annual Progress Report on Status of Reactor Construction.	Revision	Semiannually	Mandatory	Electric utilities	55	165	This form collects chronological and cost data on nuclear plants under construction. Data are needed to permit the EIA to continue to provide this information to Congress and the public. These data will be published in an annual report. Respondents are electric utilities.

[FR Doc. 85-2307 Filed 1-29-85; 8:45 am]

BILLING CODE 6450-01

Federal Energy Regulatory Commission

[Docket No. CP85-202-000]

Arkansas Louisiana Gas Co.; Application

January 24, 1985.

Take notice that on January 2, 1985, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-202-000 an application pursuant to section 7 of the Natural Gas Act and § 284.221 of the Commission's Regulations requesting a blanket certification of public convenience and necessity authorizing Arkla to transport natural gas on behalf of any other interstate pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla states that it is an interstate pipeline proposing to transport gas on behalf of any other interstate pipeline to the extent contemplated by § 284.221 of the Commission's Regulations, including the abandonment authorization provisions of paragraph (e) of that section. Arkla also indicates that it will comply with the conditions in paragraph (d) of § 284.221 of the regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Arkla to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2341 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-197-000]

Columbia Gas Transmission Corp.; Application

January 24, 1985.

Take notice that on December 26, 1984, Columbia Gas Transmission Corporation (Columbia), having its principal place of business at 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85-197-000 an abbreviated application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain gas facilities and for permission and approval to abandon certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes six mail line construction and abandonment projects and states that the projects involving the replacement of deteriorated pipeline segments are needed to maintain service to Columbia's existing wholesale customers at levels presently authorized by the Commission and that the proposed abandonment of the Bickers Compressor Station would not result in termination of service to any of Columbia's existing customers. A summary of Columbia's proposed projects follows.

Project	Description	Location
1	Replacement of 0.6 mile of 18-inch pipeline with 0.6 mile of 20-inch pipeline.	Range Township, Madison County, Ohio.
2	Replacement of 1.1 miles of 20-inch pipeline with 1.1 miles of 24-inch pipeline.	Fayette Township, Lawrence County, Ohio.
3	Replacement of two line crossing of the Mad River which involves replacing 0.4 mile of 12-inch pipeline with 0.2 mile of 24-inch pipeline.	Bath Township, Greene County, Ohio.
4	Replacement of 2.5 miles of 12-inch pipeline with 0.4 mile of 10 and 16-inch pipeline with 2.5 miles of 20-inch pipeline.	Corning and Big Flats Townships, Chemung and Steuben Counties, New York.
5	Replacement of 3.3 miles of 12-inch pipeline with 3.2 miles of 16-inch pipeline and 0.1 mile of 12-inch pipeline.	Tyrone and Reading Townships, Schuyler County, New York.
6	Abandonment of Bickers Compressor Station consisting of four 800-horsepower compressor units.	Greene County, Virginia.

It is estimated that the proposed construction would cost $3,712,000, including the Commission's filing fees, which cost would be financed with funds generated from internal sources. Columbia states that certain compressor station equipment and structures would be sold for salvage.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 13 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the

Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2342 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-26-000 and TA85-1-26-001]

Natural Gas Pipeline Company of America; Change in Rates

January 25, 1985.

Take notice that on January 18, 1985, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective March 1, 1985:

Fifty-seventh Revised Sheet No. 5
Twenty-fourth Revised Sheet No. 5A
Eleventh Revised Sheet No. 5C
Eleventh Revised Sheet No. 5D

The purpose of the instant filing is to reflect rate adjustments pursuant to sections 18 and 29 of the General Terms and Conditions of the Tariff (PGA and Incremental Pricing) and section 24 of the Tariff (Research, Development and Demonstration).

The overall effect of the adjustments on Natural's DMQ-1 rates is an increase of 10.76 cents in the commodity component with the demand and entitlement components remaining unchanged. Of the 10.76 cent increase, (.01) cents is attributable to the Research, Development and Demonstration Adjustment. Appropriate adjustments have been made with respect to Natural's other sales rate schedules. The effect of these rate changes over the next six month deferred account recovery period is a revenue increase of $49.3 million. This revenue increase is comprised of a $22.1 million increase in gas costs and $27.2 million increase due to the increase in the deferred account recovery rate. The effect of the Research, Development and Demonstration Adjustment is a reduction of $46 thousand over the six month period.

Natural states that included within the deferred account recovery rate is a surcharge of 5.72 cents designed to recover on an annual basis $56.4 million of Order 94 production related cost payments made by Natural in partial satisfaction of its retroactive contractual obligations. Such payments were made net of the Order 93 Btu refund payable to Natural as permitted by Commission Order 399-A issued November 20, 1984. Natural requests the appropriate waivers of section 18 of the Tariff and necessary waivers of the Commission's Regulations to permit this surcharge adjustment to take effect on March 1, 1985. On November 5, 1984, Natural has earlier filed in Docket No. RP85-18 a request to institute a one time lump sum billing to its customers to recover Order 94 payments made to producers. If the Commission approves Natural's request in Docket No. RP85-18 prior to the effectiveness of the instant filing, Natural states it will refile to eliminate this portion from its deferred account recovery rate.

Natural states it has reached an agreement in principle with its suppliers of Canadian gas which would provide for a reduction in the cost of such gas when compared with current pricing provisions. Upon approval by the appropriate regulatory authorities Natural states it intends to incorporate such revised provisions in its PGA. The instant filing reflects the cost of Canadian gas at the Canadian border price of $4.40 per MMBtu.

Sheets Nos. 5C and 5D reflect no projected incremental pricing surcharges (MSAC) for the six month period beginning March 1, 1985.

Natural requests any waivers to the Commission's Regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1985.

Natural is also submitting for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1 six (6) copies of First Revised Sheet No. 146 to be effective January 1, 1985. The purpose of this sheet is to revise the provisions of section 26 of Natural's tariff (Gas Research Institute (GRI) surcharge) to provide that all GRI payments received by Natural shall be remitted within 15 days of receipt. The proposed revisions are being submitted in accordance with Ordering Paragraph C of FERC Order issued September 28, 1984, at Docket No. RP84-85-000.

A copy of this filing is being mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

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 §§ 385.214 and 385.211. All such petitions or protests must be filed on or before February 1, 1985. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2343 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-107-024]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 25, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 27, 1984 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 the following sheet:

Third Revised Seventy-first Revised Sheet No. 14

Pursuant to the Phase I and Phase IA Agreements which were approved by Commission orders dated February 2, 1984 and June 18, 1984, Texas Eastern renders a firm transportation service pursuant to its Rate Schedule FTS which was filed with the Commission on August 10, 1984 and accepted as part of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1 by Commission order dated September 7, 1984.

Pursuant to Article X of the Phase I Agreement and Article V of the Phase 1A Agreement, Texas Eastern is required, in the event the actual costs of facilities and other costs incurred in connection with providing service pursuant to Rate Schedule FTS vary from the estimates set forth in the Phase I and Phase 1A Agreement, to file within sixty days from November 1, 1984 (date of commencement of service) a revised tariff sheet which sets forth rates for Rate Schedule FTS based upon actual costs. The rates set forth in proposed Third Revised Seventy-first Revised Sheet No. 14 have been calculated on the foregoing basis.

The proposed effective date of the above tariff sheet is January 1, 1985.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 1, 1985. 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2345 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-172-000]

Power Developers, Inc. et al.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 25, 1985.

On January 3, 1985, Power Developers, Inc. (Applicant), of 11511 Katy Freeway, Suite 550, Houston, Texas 77079, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Applicant's facility utilizes refuse derived fuel (RDF) as its primary energy source. The facility's principal components are expected to include RDF-fueled boilers, a steam turbine electric generating set and a combustion turbine generating set with a heat recovery unit. The electricity produced by the project will be approximately 39 MW, gross. The project will be located near and east of Scottsdale, Arizona. Natural gas input into the facility will not be greater than 25% of the facility's total annual BTU input.

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 NE., 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2344 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-20297-001, et al.]

ARCO Oil and Gas Company, Division of Atlantic Richfield Co., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

January 24, 1985.

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 February 11, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions 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 accordanace 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.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
G-20297-001, Dec. 24, 1984	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Transcontinental Gas Pipe Line Corporation, Lake Arthur Field, Jefferson Davis Parish, Louisiana.	(3)	15.025
C161-1271-001, Dec. 10, 1984	Aminoil Inc., P.O. Box 924193, Houston, Texas 77292-4193.	Montana-Dakota Utilities Company, Tioga Gasoline Plant, Williams County, North Dakota.	(4)	14.73
C175-536-001, E, Dec. 24, 1984	ANR Production Company (Successor in Interest To Shell Western E&P Inc.), 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Texas 77056.	Montana-Dakota Utilities Company, Mondak Field, Richland County, Montana.	(4)	14.73
C182-305-002, Dec. 13, 1984	The Louisiana Land and Exploration Company, 225 Baronne Street, New Orleans, Louisiana 70160.	Texas Eastern Transmission Corporation, Blocks 85 and 86, West Delta Area, Offshore Louisiana.	(4)	15.025
C182-312-003, Jan. 3, 1985	Amerada Hess Corporation, P.O. Box 2040, Tulsa, Oklahoma 74102.	Texas Eastern Transmission Corporation, West Delta Area Blocks 85 and 86, Offshore Louisiana.	(4)	15.025
C185-93-000, A, Nov. 23, 1984	Aminoil Inc., 2800 North Loop West, P.O. Box 924193, Houston, Texas 77292-4193.	Chevron U.S.A. Inc., Huntington Beach Plant, Orange County, California.	(4)	14.73
C185-151-000, A, Dec. 21, 1984	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Natural Gas Pipeline Company of America, Vermilion Block 277, Offshore Louisiana.	(4)	15.025
C185-154-000, A, Dec. 28, 1984	Diamond Shamrock Exploration Company, P.O. Box 631, Amarillo, Texas 79173.	Florida Gas Transmission Company, Block 55, Matagorda Island Area, Offshore (Federal) Texas.	(4)	14.73
C185-157-000, F, Dec. 31, 1984	The Superior Oil Company (Partial Successor In Interest To Gulf Oil Corporation), Post Office Box 1521, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Deep Lake Field, Cameron Parish, Louisiana.	(5)	14.73
C185-165-000, A, Jan. 14, 1985	Shell Offshore Inc., P.O. Box 4480, Houston, Texas 77210.	Southern Natural Gas Company, Main Pass 310 Fields, Offshore Louisiana (Block 304 only).	(4)	15.025

[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 ft.³	Pressure base
C165-161-000, A, Jan. 7, 1985	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Natural Gas Pipeline Company of America, South Marsh Island Block 8 and Eugene Island Block 133, Offshore Louisiana.	(2)	15.025
G-2922-000, Jan. 10, 1985	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Seeligson Field, Jim Wells County, Texas.	(10)	14.73
G-4288-000, Jan. 10, 1985	do	Tennessee Gas Pipeline Company, Seeligson Field, Jim Wells County, Texas.	(10)	14.73
C166-190-000, E, Jan. 11, 1985	Phillips Petroleum Company (Successor In Interest To Phillip Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Texas Gas Transmission Corporation Maurice Field, Lafayette and Vermilion Parishes, Louisiana.	(11)	14.73
C164-475-001, C165-1365-001, C179-445-002	Texas Inc., Post Office Boc 52332, Houston, Texas 77052.	Texas Gas Transmission Corporation, tailgate of Texaco's Floodway Gas Processing Plant, St. Mary Parish, Louisiana.	(12)	14.73
C165-169-000, A	Pan Eastern Exploration Company, P.O. Box 1330, Houston, Texas 77251-1330.	Panhandle Eastern Pipeline Company, Matagorda Island Block 623, Offshore Texas.	(13)	14.73
C165-170-000, A, Jan. 17, 1985	Louisiana Land Offshore Exploration Company, Inc., 225 Baronne Street, Post Office Box 60350, New Orleans, Louisiana 70160.	Tennessee Gas Pipeline Company, Blocks 173, 174 and 175, South Marsh Island Area, Offshore Louisiana.	(13)	15.025
C165-171-000, A, Jan. 17, 1985	The Louisiana Land and Exploration Company, 225 Barronne Street, Post Office Box 60350, New Orleans, Louisiana 70160.	Tennessee Gas Pipeline Company, Blocks 173, 174 and 175; South Marsh Island Area, Offshore Louisiana.	(13)	15.025
C165-174-000, A, Jan. 18, 1985	ARCO Oil and Gas Company, Division Of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Texas Gas Transmission Corporation, Walker Creek Field, Columbia and Lafayette Counties, Arkansas.	(14)	14.73

[1] Applicant is filing application to amend the September 1, 1959 contract to provide for compression, processing of the gas, and newley established delivery and redelivery points.
[2] Applicant is filing for additional acreage.
[3] On December 21, 1984, ANR, as successor-in-interest to Shell, and MonDak signed an amendment to the gas which agreement which will be effective January 1, 1985.
[4] Applicant is filing under Gas Purchase Agreement dated May 1, 1983.
[5] Applicant is filing under Gas Purchase Contract dated October 11, 1984.
[6] Applicant is filing under Gas Purchase Contract dated December 13, 1982.
[7] By Sublease dated November 12, 1981, Gulf sublet certain of its interest in an oil and gas lease located in Deep Lake Field, Cameron Parish, Louisiana to Superior.
[8] Applicant is filing under Gas Purchase Contract dated June 1, 1984.
[9] Applicant is filing under Gas Purchase Contract dated December 4, 1984.
[10] Applicant is filing for additional delivery point.
[11] Effective December 1, 1983, Philips Oil Company assigned to Applicant, its working interest in the Maurice Field, Lafayette and Vermilion Parishes, Louisiana.
[12] Applicant is filing under Gas Purchase Contract dated May 22, 1984.
[13] Applicant is filing under Gas Purchase and Sales Agreement dated June 22, 1984
[14] Applicant is filing under Gas Purchase Contract dated October 21, 1969.

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. 85-2329 Filed 1-29-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RE84-4-001]

Indianapolis Power & Light Co.; Application for Exemption

January 25, 1985.

Take notice that Indianapolis Power & Light Company (IPL) filed an application on December 14, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subpart B, C, D, and E of Part 290.

In its application for exemption IPL states, in part, that is should not be required to file the specified data for the following reasons:

The information provided by IPL in the November, 1980 and June 30, 1982 section 133 filings has not been used in States or Federal rate proceedings.

The preparation of the 1980 and 1982 filings was costly and provided no benefit to IPL's ratepayers.

The continued filing of cost of service data is not likely to carry out the purposes of section 133 of PURPA.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Harry K. Keller, Vice President, Rates and Regulations, Indianapolis Power & Light Company, P.O. Box 1595B, Indianapolis, Indiana 46206.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 85-2331 Filed 1-29-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RE84-10-001]

Iowa Public Service Co.; Application for Exemption

January 25, 1985.

Take notice that Iowa Public Service Company (IPSC) filed an application on December 24, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption IPSC states, in part, that it should not be required to file the specified data for the following reasons:

The stated purpose of section 133 of PURPA have been achieved in its 1980 and 1982 filings.

Any further reporting is not likely to carry out the purposes of PURPA.

The state regulatory authorities require similar information, therefore any further reporting is duplicative and unnecessary in retail rate proceedings.

FERC previously granted IPSC's Application for Exemption insofar as it

pertained to the June 30, 1984 filing requirement.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdication over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period, such person must also serve a copy of such comments on: Mr. E. Phil Vondrak, Senior Attorney, Iowa Public Service Company, P.O. Box 778, Sioux City, Iowa 51102.

Louis D. Cashell,

Acting Secretary.

[FR Doc. 85-2332 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE82-14-002]

Kansas City Power & Light Co.; Application for Exemption

January 25, 1985.

Take notice that Kansas City Power & Light Company (KCPL) filed an application on December 27, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption KCPL states, in part, that it should not be required to file the specified data for the following reason:

"The cost of gathering and filing the information is excessive relative to the benefits."

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Robert B. Sullivan, Director of Rates and Regulation, Kansas City Power & Light Company, 1330 Baltimore, Kansas City, Missouri 64105.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2333 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-2-001]

Lansing Board of Water & Light, Lansing, MI; Application for Exemption

January 25, 1985.

Take notice that the Lansing Board of Water & Light (LANSING) filed an application on November 26, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption LANSING states, in part, that it should not be required to file the specified data for the following reasons:

The required Part 290 data compilations including marginal cost studies are not used by LANSING in establishing retail rates.

Compliance with the Part 290 filing requirements necessitated the services of consulting firm. The resulting studies were of no appreciable value to LANSING other than for compliance purposes.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiciton.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Wallace R. Nourse, Board of Water & Light, P.O. Box 13007, Lansing, MI 76102.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2334 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C185-173-000]

Marathon Oil Co.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity and Limited Partial Abandonment Authorization

January 25, 1985.

Take notice that on January 18, 1985, Marathon Oil Company ("Marathon"), 539 South Main Street, Findlay, Ohio 45840, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Commission's Regulation thereunder, for limited partial abandonment authorization and Necessity a Blanket Limited-Term certificate of Public convenience and authorizing Marathon to conduct a short-term spot sales marketing program, hereinafter referred to as the Marathon Special Marketing Program ("Marathon SMP"), all as more fully set forth in the Application which is on file with Federal Energy Regulatory Commission ("Commission") and open to public inspection.

Approval would: (i) Authorize sale of natural gas by Marathon for resale in interestate commerce; (ii) permit temporary partial abandonment of certain natural gas sales; (ii) confer pregranted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (iv) authorize transporation of natural gas by interstate pipeline companies able and willing to participate in Marathon

SMP; and (v) confer pregranted abandonment authorization for the transportation service allowed under the requested certificate. This authority is necessary for implementing a short-term experimental spot sales marketing program. Under Marathon SMP, Marathon proposes to sell on a spot basis contractually committed natural gas qualifying for the section 102, 103, 107 or 108 rate under the Natural Gas Policy of 1978. Marathon will seek temporary releases of gas from the purchasers to whom it is committee in order to meet market demand for spot sales. Releasing purchasers will be given relief from take-or-pay liability for any volumes of gas released and sold under the Marathon SMP.

Any person desiring to be heard or to make any protest with reference to said Application should on or before February 11, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure. (18 CFR 385.211 or 385.214) 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 a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Marathon is otherwise advised, it will be unnecessary for Marathon to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-2335 Filed 1-29-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST79-101-002, et al.]

Oasis Pipe Line Co., et al.; Extension Reports

January 25, 1985.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or mofify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party received the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before February 15, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). 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 party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Docket No. and transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST79-101-002 Oasis Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	12-31-84	C	04-05-85
ST80-88-002 Houston Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	12-31-84	C	04-05-85
ST80-185-002 Tennessee Gas Pipeline Co., P. O. Box 2511, Houston, TX 77001	Southern Natural Gas Co	12-27-84	G	04-01-85
ST80-197-002 Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	United Gas Pipe Line Co	12-27-84	G	04-01-85
ST81-193-002 Somerset Gas Service, P.O. Box 999, Somerset, KY 42501	Texas Eastern Transmission Corp	12-28-84	C	04-21-85
ST81-212-002 National Fuel Gas Supply Corp., 10 Lafayette Square, Buffalo, NY 14203	Elizabethtown Gas Co	12-17-84	B	03-19-85
ST81-217-002 Panhandle Eastern Pipe Line Co., P. O. Box 1642, Houston, TX 77001[1]	Peoples Natural Gas Co	12-28-84	B	03-27-85
ST81-231-002 Oasis Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Tennessee Gas Pipeline co	12-31-84	C	03-31-85
ST81-255-002 Mississippi River Transmission Corp., 9900 Clayton Rd., St. Louis, MO 63124	Texas Eastern Transmission Corp	12-28-84	G	04-01-85
ST81-258-002 Liberty Natural Gas Co., 5307 E. Mockingbird, Dallas, TX 75206	Tennessee Gas Pipeline Co	12-27-84	C	03-31-85
ST81-375-002 Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77001	Mississippi River Transmission Corp	12-31-84	G	04-01-85
ST82-383-001 Rocky Mountain Natural Gas Co., Inc., 1600 Sherman St., Denver, CO 80203[1]	Colorado Interstate Gas Co	12-20-84	C	06-07-84
ST83-75-001 Rocky Mountain Natural Gas Co., Inc., 1600 Sherman St., Denver, CO 80203[1]	Northwest Pipeline Corp	12-20-84	C	10-31-84
ST83-325-001 Delhi Gas Pipeline Corp., 1700 Pacific Avenue, Dallas, TX 75201[1]	United Gas Pipe Line Co	12-18-84	C	03-11-85
ST83-330-001 Trunkline Gas Co., P. O. Box 1642, Houston, TX 77001	Dow Intrastate Gas Co	12-14-84	B	03-18-85
ST83-539-001 Trunkline Gas Co., P. O. Box 1642, Houston, TX 77001	Sunburst Energies, Inc	12-17-84	B	03-25-85
ST84-675-001 Columbia Gulf Transmission Co., P. O. Box 683, Houston, TX 77001	Panhandle Eastern Pipe Line Co	12-17-84	G	02-13-85

[1]These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.

Note.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85-2336 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-135-000]

Pennzoil Oil & Gas, Inc. and Pennzoil Producing Co.; Blanket Temporary Certificate of Public Convenience and Necessity

January 25, 1985.

Take notice that on December 7, 1984, Pennzoil Oil & Gas Inc. and Pennzoil Producing Company, (Pennzoil) of P.O. Box 2967, Houston, Texas 77252-2967 filed an application in Docket No. CI85-135-000 for a blanket temporary certificate authorizing sales of gas from certain blocks in Offshore Louisiana in advance of execution of any gas purchase agreements.

Applicants request the expedited issuance of a blanket temporary certificate of public convenience and necessity authorizing the sale of gas from Block Ship Shoal 63 by Pennzoil Producing Company and from Eugene Island Block 337, Mississippi Canyon Block 63, South Pass Block 49, High Island Block 582 and West Cameron Block 573 by Pennzoil Oil & Gas Inc. It is anticipated that the delivery points will be at the production platforms installed on or near the specified blocks.

Pennzoil claims that existing special circumstances warrant the issuance of a blanket temporary certificate to advance of execution of any gas purchase contracts. Pennzoil states that changing market conditions have caused pipelines, particularly those purchasing offshore gas where volumes are greater, to wait until a block is ready to produce before executing a contract. Until recently gas purchase contracts were executed in advance of the projected initial delivery date of an offshore block in order to allow sufficient time to file for and receive certificate authorization from the Commission. Pennzoil further states that the current practice forces a delay in producing gas where such gas requires the issuance of a certificate since sales cannot commence until a certificate has been issued.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2337 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-48-001]

Puerto Rico Electric Power Authority; Application for Exemption

January 25, 1985.

Take notice that Puerto Rico Electric Power Authority (PREPA) filed an application on December 27, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the cots of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption Puerto Rico states, in part, that it should not be required to file the specified data for the following reasons:

"The information is not used."

"Gathering and reporting the information is not necessary, because the information is available through other sources."

"The cost of gathering and filing the information is excessive in relation to its benefits."

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Angel Mayol, Puerto Rico Electric Power Authority, G.P.O. Box 4267, San Juan, Puerto Rico 00936.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2338 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-18-000]

City of Tacoma v. Washington Water Power Co. et al.; Complaint

January 25, 1985.

Take notice that on December 28, 1984, Puget Sound Power & Light Company (Puget) tendered for filing copies of a letter dated June 27, 1984, from City of Tacoma, Department of Public Utilities, stating Tacoma desired changes in the charges presently listed in section 14 of the Pacific Northwest Coordination Agreement, Contract No. 14-02-4822, as amended by Amendatory Agreements Nos. 1 and 2 (such agreement as so amended is referred to hereinafter as the "Agreement"). Such June 27, 1984 letter shall be treated as a complaint with respect to such charges under section 206 of the Federal Power Act, by City of Tacoma, Department of Public Utilities, against respondents (The Washington Water Power Company; The Montana Power Company; PacifiCorp, doing business as Pacific Power & Light Company; Portland General Electric Company; and Puget Sound Power & Light Company).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 25, 1985. Protests will be considered by the Commission in determining the appropriate action to 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-2330 Filed 1-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE84-5-002]

Texas-New Mexico Power Co.; Application for Exemption

January 25, 1985.

Take notice that Texas-New Mexico Power Company (TNP) filed an application on December 17, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption TNP states, in part, that it should not be required to file the specified data for the following reasons:

The Public Utilities Commission of Texas and the New Mexico Public Service Commission have considered the rate standards of Title I of PURPA, the major reason for the compilation and reporting of section 133 data.

State commission requirements provide sufficient data for retail rate making purposes; further section 133 data reporting would serve little or no purpose.

The cost of acquiring and reporting the section 133 data outweighs any benefits likely to result from that effort.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Randy Ownby, Manager, Contracts and Regulatory Affairs, Texas-New Mexico Power Company, 501 West Sixth Street, Fort Worth, Texas 76102.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 85-2339 Filed 1-29-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-137-014]

Transcontinental Gas Pipe Line Corporation; Tariff Filing

January 24, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on January 15, 1985, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The sheets are proposed to become effective on March 1, 1985 and were filed in accordance with Article X of Transco's "Settlement Agreement As To Rates" approved by Commission order dated July 25, 1984 in Docket No. RP83-137. The revised tariff sheets reflect a "tracking" rate reduction of 0.3¢ per dt in the commodity rate or delivery charge of Transco's sales and long-haul transportation rate schedules.

Article X of the settlement agreement provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of any decreases in the amount of Transco's outstanding advance payments after March 31, 1984. The rate reduction proposed is occasioned by a decrease of $18,676,117 in the advance payment balance of Transco from that which existed at August 31, 1984.

Transco further states that copies of the instant filing have them mailed to each of its customers, and State Commissions and other parties to Docket No. RP83-137.

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, NE, Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and §385.214). All such petitions or protests should be filed on or before January 31, 1985. 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.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 85-2340 Filed 1-29-85; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59179A; FRL-2767-7]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). TME-85-11. The test marketing conditions are described below.

EFFECTIVE DATE: January 22, 1985.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-609B, 401 M St. SW., Washington, DC. 20460, (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-11. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. The production volume must not exceed that specified in the application.

The following additional restrictions apply to TME-85-11. A bill of lading

accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME 85–11

Date of Receipt: December 11, 1984.

Notice of Receipt: December 24, 1984 (49 FR 49895).

Applicant: Products Research and Chemical Corporation.

Chemical: (G) Aliphatic isocyanate reaction product with substituted aliphatic amine.

Use: (G) Sealant formulation.

Production Volume: 25 kilograms.

Number of Customers: Ten.

Worker Exposure: Manufacture: a total of 4 workers for up to 2.5 hours per day for 6 days. Processing: a total of 5 workers for 8 hours per day for 6 days. Use: a total of 2 workers for 8 hours for 1–3 days for up to 10 sites.

Test Marketing Period: Eight months.

Commencing on: January 22, 1985.

Risk Assessment: No significant health or environmental concerns were identified. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 22, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–2437 Filed 1–29–85; 8:45 am]

BILLING CODE 6560–50–M

[PF–400; FRL–2767–6]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–400] and the petition number; attention Product Manager (PM–17), at the following address: Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: BY MAIL: Timothy A. Gardner, (PM–17), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 207, CM No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions (PP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

1. *PP 5F3171 & PP 5F3172.* Shell Oil Co., Suite 200, 1025 Connecticut Ave., Washington, DC 20036. Proposes to amend 40 CFR 180.379 by establishing tolerances for the residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate, in or on the commodities as follows:

Petition ID	Commodities	Parts per million (ppm)
PP 5F3171	Carrots	0.5
PP 5F3172	Spinach	30.0

The proposed analytical method for determining residues is gas chromatography.

2. *PP 5F3177 & PP 5F3180.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing tolerances for the insect growth regulator cyromazine (*N*-cyclopropyl-1, 3, 5-triazine-2, 4, 6-triamine and its methabolite, melamine (1, 3, 5-triazine-2, 4, 6-triamine) in or on the commodities as follows:

Petition ID	Commodities	Parts per million (ppm)
PP 5F3177	Mushrooms	10.0
PP 5F3180	Celery	10.0
	Lettuce	5.0

The proposed analytical method for determining residues is gas chromatography.

II. Amended Petition

PP 4F3110 & FAP 4H5436. American Cyanamid Co., P.O. Box 400 Princeton, NJ 08540. EPA issued a notice published in the **Federal Register** of August 1, 1984 (49 FR 30789) which announced that American Cyanamid Co., had submitted PP 4F3110 and FAP 4H5436 to the Agency proposing to amend 40 CFR 180.400 (raw agricultural commodities) and 21 CFR 561.435 (feed commodities) by establishing tolerances for residues of the insecticide (±) cyano (3-phenoxyphenyl)methyl (±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzene acetate in or on the commodities as follows:

Petition ID	CFR affected	Commodities	Parts per million (ppm)
PP 4F3110	40 CFR 180.400	Field corn grain	0.05
FAP 4H5436	21 CFR 561.435	Field corn forage	0.05
		Field corn fodder (stover)	1.0
		Field corn silage	0.05

Petition ID	CFR affected	Commodities	Parts per million (ppm)
		Sweet corn cannery waste	1.0
		Sweet corn forage	13.0

American Cyanamid Co., has amended the petitions as follows:

a. *FAP 4H5436.* Deleted the feed commodities proposed in FAP 4H5436 (21 CFR 561.435).

b. *PP 4F3110.* Proposed tolerances for field corn fodder (stover) and forage at 1.0 ppm, and field corn silage at 0.05 ppm.

The proposed analytical method for determining residues is by gas chromatography.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2))

Dated: January 23, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-2423 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00193; FRL-2768-1]

Pesticide Labeling Project; Request for Public Comment

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Notice.

SUMMARY: The Office of Pesticide Programs has initiated a long term project to determine ways to increase the effectiveness of use, hazard, and precaution information communication for pesticides. As part of that effort, EPA's Administrator's Pesticide Advisory Committee (APAC) established a Subcommittee on Labeling to advise the Agency on the effectiveness of current pesticide labeling; to identify groups from which to obtain information; to advise in the appropriate format and content of labeling; and to advise on alternative approaches to communicate information. In order to obtain information from as many pesticide users as possible, the APAC Subcommittee on Labeling requested that the Agency issue this notice for publication in the Federal Register to obtain public comment and input on various aspects of pesticide hazard and precaution communication.

DATE: The Agency will accept comments on its Pesticide Labeling Project at any time. However, in order to give the APAC Subcommittee on Labeling a base of information from which to work, written comments in response to this notice should be submitted by April 1, 1985.

ADDRESS: Written comments, identified with "OPP-00193", should be submitted, in triplicate, by mail, to: Information Services Section, Program Mangement and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments should clearly indicate whether you wish to have your name included on the Office of Pesticide Programs' Pesticide Labeling Project mailing list.

FOR FURTHER INFORMATION CONTACT: By mail: Arty Williams, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1114, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7749).

SUPPLEMENTARY INFORMATION:

A. Background

Section 3(c)(5) of the Federal Insecticide, Fungicide and Rodenticide Act as Amended (FIFRA) explains that the Administrator shall register a pesticide if certain conditions exist. One of these conditions is that unreasonable adverse effects on the environment will not result when the pesticide is used in accordance with widespread and commonly recognized practice. Section 2(bb) of FIFRA defines "unreasonable adverse effect on the environment" as any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide. The Office of Pesticide Programs (OPP), working under the authority of FIFRA, relies on risk/benefit analyses to determine if unreasonable adverse effects result from pesticide use, and thus, to determine whether a pesticide should be registered or reregistered.

During the registration and reregistration of pesticide products, one element of the Agency's risk/benefit analysis is the assumption that users of pesticide products read and adhere to use directions and precautionary measures specified on the product label. The agency has placed a great deal of confidence in the validity of this assumption. However, serveral studies and surveys regarding the way in which people read information, their reaction to different formats, colors, etc., indicate that users of pesticides may not be comprehending and following the information presented on pesticide labels. The agency needs to analyze available information and, from it, determine the extent to which labeling is read and followed, determine what steps will increase the effectiveness of pesticide labeling, and develop and implement changes to labeling practices and other communication networks to help ensure that users of pesticide products are adhering to use directions and precautionary measures.

B. Project Summary

OPP's Pesticide Labeling Project consists of two efforts which are being undertaken simultaneously. One effort consists of defining the problem and gaining consensus on the extent of the problem. This is being accomplished via discussions with a large number of persons involved with pesticides (i.e., users, industry representatives, environmental organizations, State regulatory officials, etc.) and through the input and advice of the APAC Subcommittee on Labeling. The second effort is to identify and analyze potential mechanisms to increase the Agency's level of confidence in labeling as a risk reduction tool.

This includes (1) examining potential changes in labeling itself and (2) exploring communication alternatives such as educational programs, training programs, using diverse media, and utilizing existing communication networks such as grower meetings, industry sponsored meetings, etc. This second effort is also being accomplished via discussions with persons involved with pesticides and through the input of the APAC Subcommittee on Labeling.

OPP's Pesticide Labeling Project is expected to take 1.5 to 2 years to complete. The APAC Subcommittee on Labeling is scheduled to complete their input to the project by October 1985.

C. Information Being Requested

The Agency is seeking information (factual or opinion) regarding the following topics:

1. Where do people get information regarding the use of pesticides? (i.e., labels, dealers, retailers, extention service, training courses, other users, manufacturer sponsored meetings, etc.). How accurate are these information

sources in transmitting proper use directions and precautionary information?

2. Whether people read, understand, and use the directions and precautionary information on pesticide labels (including accompanying leaflets or booklets). Why or why not?

3. What changes to current labels and labeling practices would increase adherence to use directions and precautionary statements on labeling?

4. Effectiveness of supplemental, detachable booklets that accompany pesticides.

5. The desirability of standardized symbols and/or colors on pesticide labeling. If desirable, which symbols and/or colors?

6. How should hazard information be transmitted on the label (i.e., by LD_{50}s, symbols depicting relative hazard levels, the current danger/warning/caution scheme, etc.)?

7. Educational programs and their effect on users' attitudes toward pesticide labels, etc.

8. What mechanisms, other than labeling, are available to transmit hazard and precaution information?

9. How could other communication networks be utilized by the Agency to transmit hazard and precaution information?

Dated: January 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-2436 Filed 1-29-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42008A; FRL-2716-7]

Phenylenediamines Category; Decision Not To Test

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice constitutes EPA's final disposition for 34 of 47 phenylenediamine (PDA) category members recommended by the Interagency Testing Committee (ITC) for priority testing consideration under section 4 of the Toxic Substances Control Act (TSCA). This action reflects comments submitted to EPA in response to the Advance Notice of Proposed Rulemaking (ANPR) on the PDA's published in the January 8, 1982 Federal Register (47 FR 973). These 34 PDA's are not being proposed for testing because of low or no production or lack of TSCA-related production and exposure. Thirteen other PDA's are being evaluated separately and are still being considered for testing. These other category members will be addressed in other Federal Register notices.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of January 8, 1982 (47 FR 973), EPA issued an Advance Notice of Proposed Rulemaking under section 4(a) of TSCA to obtain data to help determine the potential risk of PDA's to human health and the environment. The Agency is now issuing a decision not to require testing of 34 of the 47 PDA's at this time.

I. Background

Section 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemicals to the Administrator of EPA for consideration for test rules under section 4(a). The ITC may also designate chemicals for priority testing consideration, and the Agency must respond within 12 months to these designations.

In the ITC's Sixth Report to the Administrator, published in the Federal Register of May 28, 1980 (45 FR 35897), the committee designated the PDA's for consideration of human health and environmental effects testing.

The PDA's were defined by the ITC as: "all nitrogen-unsubstituted [PDA's] with zero to two substituents on the ring selected from the same or different members of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl and lower-alkoxy. For this purpose, the term 'lower' is defined as a group containing between one and four carbons." The ITC classified 50 substances occurring on the TSCA Public Inventory as PDA's. EPA's review identified 47 of these chemicals as unique substances falling within the stated definition. No additional PDA's are in the TSCA CBI inventory.

The ITC recommended that the untested and inadequately tested category members be evaluated through testing for carcinogenicity, mutagenicity, teratogenicity and for other health effects (with particular emphasis on blood, bone marrow and nervous system disorders). The ITC also recommended that epidemiological studies be performed for those PDA's for which there is significant human exposure potential. Additionally, the ITC recommended that testing for environmental effects be considered, particularly on organisms repeatedly exposed from constant release. The ITC based its recommendations on the high production levels of some PDAs, the demonstrated or suspected health effects associated with certain PDA's, and the general usage of these kinds of chemicals (Ref. 3).

EPA's response to this designation was published in the Federal Register of January 8, 1982 (47 FR 973), as an Advance Notice of Proposed Rulemaking (ANPR) for the PDA category (Ref. 4). In the ANPR, EPA stated that available exposure potential and toxicological information were sufficient to warrant consideration of 13 of the 47 chemicals for testing under section 4(a)(1)(A) of TSCA. The other 34 chemicals were not believed to warrant testing because of low or no production subject to TSCA. In addition to the publication of the ANPR, the Agency published a TSCA section 8(a) manufacturer's reporting rule (Ref. 1) and a TSCA section 8(d) health and safety studies reporting rule (Ref. 2). Both rules included the names and CAS numbers of all 47 PDA's listed in the ANPR.

Toxicological data submitted in response to the section 8(d) rule were received from: Eastman Kodak, Olin Corporation, Allied Corporation, E.I. Dupont de Nemours, Inc., Air Products, Dow Chemical, U.S.A., Mobay Chemical Company, General Electric, Monsanto, and Ciba Geigy Corporation. Most of the data submitted in response to the 8(d) rule were for the 13 PDA's for which testing was proposed in the ANPR. The only section 8(d) data received for the 34 chemicals included in this notice were for ethoxyphenylenediamine (CAS No. 1197-37-1): Acute dermal toxicity to rabbits (LD_{50} >2,000 mg/kg; irritating), eye irritation to rabbits (moderate) and the oral LC_{50} for rats (<5,000 mg/kg) (Ref. 8).

II. Response to Public Comment

Comments responding to the ANPR were received from: DuPont, the Cosmetic, Toiletry and Fragrance Association (CTFA), Cosmair, Inc., Clairol, Natural Resources Defense Council, Shell Oil Company, International Isocyanate Institute, Inc., Allied, American Psychological Association, Dow, and the Chemical Manufacturers Association (CMA).

In the ANPR, the category was subdivided solely on the basis of whether testing seemed justified. In response to the ANPR, CMA pointed out that the manufacture and use patterns of the toluenediamines (TDA's) are different from those of the other PDA's DuPont commented that the unsubstituted *ortho-*, *meta-*, and *para-*phenylenediamine isomers are manufactured and used as separate isomers and these processes are different from those for the TDA's. Both CMA and DuPont argued that each substance should be considered separately from the other substances listed in the category. Both DuPont and CTFA commented that those PDA's used in hair dyes fell under the jurisdiction of the Federal Food, Drug, and Cosmetics Act (FFDCA) and not under TSCA. The industry comments have persuaded EPA that subdividing the category to reflect these different manufacturing and use patterns simplifies many of the issues persented by the PDA's category and helps to identify approriate testing for the various substances in the category. The Agency's new approach to subcateorization reflecting these comments appears in Unit III of this notice.

DuPont, Kodak and CMA provided responses to the ANPR question on the best way to monitor production and use changes for the 34 chemicals included in this notice. In general they felt that the most appropriate route for obtaining new data would be a section 8(a) follow-up rule. A more detailed summary and response to the follow-up rule development issues will be provided when EPA proposes a follow-up rule in a future notice.

Other comments received in response to the ANPR are specific to PDA's not covered by this notice and will be addressed in future notices.

III. Subdivision of Category

The industry's responses to the ANPR discussed in unit II pointed out that there are important differences among segments of the PDA industry with respect to manufacture and use of the PDA's. Therefore, the Agency is now subdividing the PDA's into three subcategories:

1. *Unsubstituted PDA's* (Table 1): Includes five free bases and salts representing three separately produced isomers with no additional substituents. *p*-Phenylenediamine dihydrochloride (CAS No. 624–18–0) was included with the chemicals tentatively proposed for testing in the ANPR but is no longer produced (Ref. 9). It is therefore included in subcategory 3. Subcategory 1 compounds are produced as single isomers and used individually in the polymer and dye industries.

TABLE 1.—UNSUBSTITUTED PHENYLENEDIAMINES

CAS No.	Chemical name
106–50–3	*p*-Phenylenediamine.
16245–77–5	*p*-Phenylenediamine sulfate.
106–45–2	*m*-Phenylenediamine.
541–70–8	*m*-Phenylenediamine sulfate.
95–54–5	*o*-Phenylenediamine.

2. *Toluenediamines* (Table 2): Includes eight chemicals manufactured by the catalytic hydrogenation of dinitrotoluenes. 3,5-Diaminotoluene (CAS No. 108714) was included in the "no testing" subcategory in the ANPR. EPA has now inlcuded it in this toluenediamines subcatogry because it is produced incidentally during the manufacture of the other more commercially important toluenediamines and is often part of toluenediamine mixtures. Subcategory 2 substances are used almost exclusively as intermediates in the plastics industry.

TABLE 2—TOLUNENEDIAMINES

CAS No.	Chemical name
95–80–7	2,4-Diaminotoluene.
823–40–5	2,6-Diaminotoluene.
2687–25–4	2,3-Diaminotoluene.
95–70–5	2,5-Diaminotoluene.
6369–59–1	2,5-Diaminotoluene sulfate.
496–72–0	3,4-Diaminotoluene.
108–71–4	3,5-Diaminotoluene.
25376–45–8	Diaminotoluene unspecified isomers.

3. *No-Test PDAs* (Table 3): Includes 34 chemicals produced in very low quantities, not commercially produced (as determined from all available production information including section 8(a) submissions), or whose production is not subject to TSCA. For those chemicals with production data, the Agency also has determined that substantial numbers of persons are not currently exposed to these chemicals as a result of TSCA-related activities. No current TSCA-related release has been identified for these chemicals (Refs. 5 through 7).

Of the 34 chemicals in subcategory 3, six are not subject to TSCA jurisdiction (Table 3, Production Not Subject To TSCA) because they are used in the manufacture of hair dye either as active ingredients in permanent hair dyes or as intermediates in the synthesis of semipermanent hair dyes. These uses of PDA's fall under the authority of the Federal Food, Drug and Cosmetic Act (FFDCA). Since section 3 of TSCA excludes cosmetics subject to the FFDCA from TSCA jurisdiction, exposure potential as a result of use in the hair dye industry is not being considered as a basis for requiring testing.

TABLE 3—NO-TEST PHENYLENEDIAMINES

CAS No.	Chemical name
Low production exposure:	
1197–37–1	4-Ethoxy-*o*-phenylenediamine.
5042–55–7	5-Nitro-*m*-phenylenediamine.
3663–23–8	4-Butyl-*o*-phenylenediamine.
68956–84–7	1,3-Benzenediamine, ar-ethyl-e methly.
68239–82–7	4-Nitro-*o*-phenylenediamine sulfate.
5131–60–2	4-Chloro-*m*-phenylenediamine.
62654–17–5	*p*-Phenylenediamine ethanedioate.
614–94–8	4-Methoxy-*m*-phenylenediamine dihydrochloride.
67801–06–3	4-Ethoxy-*m*-phenylenediamine dihydrochloride.
68015–98–5	4-Ethoxy-*m*-phenylenediamine sulfate (1:1).
5307–02–8	1,4-Benzenediamine, 2-methoxy.
18266–52–9	2-Nitro-*p*-phenylenediamine dihydrochloride.
68239–83–8	2-Nirto-*p*-phenylenediamine sulfate.
42389–30–0	5-Chloro-3-nitro-*o*-phenylenediamine.
6219–77–8	4-Nitro-*o*-phenylsnediamine dihydrochloride.
68239–80–5	4-Chloro-*m*-phenylenediamine sulfate.
68459–98–3	4-Chloro-*o*-phenylenediamine sulfate, monosulfate.
615–46–3	2-Chloro-*o*-phenylenediamine dihydrochloride.
20103–09–7	2,5-Dichloro-*p*-phenylenediamine.
15872–73–8	4,6-Diamino-*o*-Cresol.
65679–44–9	4,6-Diamino-*o*-Cresol hydrochloride.
66422–95–5	2-(2,4-Diaminophenoxy) ethanol dihydrochloride.
541–69–5	*m*-Phenylenediamine dihydrochloride.
615–28–1	*o*-Phenylenediamine dihydrochloride.
615–45–2	2,5-Diaminotoluene dihydrochloride.
95–83–0	4-Chloro-*o*-phenylenediamine.
137–09–7	2,4-Diaminophenol dihydrochloride.
624–18–0	*p*-Phenylenediamine dihydrochloride.
5307–14–2	2-Nitro-*p*-phenylenediamine.
5131–58–8	4-Nitro-*m*-phenylenediamine.
6219–71–2	2-Chloro-*p*-phenylenediamine sulfate.
39156–41–7	4-Methoxy-*m*-phenylenediamine sulfate.
99–56–9	4-Nitro-*o*-phenylenediamine.
615–05–4	4-Methoxy-*m*-phenylenediamine.

The 13 chemicals included in subcategories 1 and 2 (Tables 1 and 2) are being considered under TSCA section 4(a) for proposed health effects and chemical fate and environmental effects testing. These two subcategories will be the subject of separate notices in the **Federal Register** and are therefore not further discussed in this notice.

IV. Decision not to Initiate Rulemaking

In the ANPR for the PDA's, the Agency stated that it did not intend to include the low production PDA's in a TSCA section 4(a) test rule because of lack of sufficient TSCA-related production or exposure. From the available data, the Agency still finds that these chemicals in Table 3 are either produced in research quantities, not produced, or are produced and distributed commerically for non-TSCA use and any exposure or release would result from non-TSCA use. Therefore, EPA believes that there is at this time no basis for making the findings under TSCA sections 4(a)(1)(A) or 4(a)(1)(B).

and thus EPA is not initiating rulemaking under TSCA section 4 at this time to require testing the 34 PDA's listed in Table 3 for health and environmental effects and chemical fate.

EPA is aware that to some of the PDA's for which testing is not being required cause toxic effects in laboratory animals (Ref. 4). The Agency believes that some type of follow-up regulation under TSCA is warranted because of the potential toxicity of the 34 chemicals covered by this notice and because the subcategory 3 chemicals may find new uses leading to new TSCA exposures. EPA is seriously considering development of a significant new use rule (SNUR) under section 5(a)(2) of TSCA because it may want to be able to review and respond to market entry of these PDA's in the same way that it would review a "new" phenylenediamine subject to premanufacture notification under Section 5. But, at a minimum, EPA expects to propose a section 8(a) follow-up rule to cover these 34 substances. The Agency's proposed follow-up approach will be published in a subsequent **Federal Register** notice.

V. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 [docket number OPTS-42008A]. This record includes:

A. Supporting Documentation

(1) **Federal Register** notice designating the PDA's category to the priority list (45 FR 35897), and all comments received thereon.

(2) ANPR for PDA's (47 FR 973).

(3) Communications from industry consisting of letters, contact reports of telephone conversations, and meeting summaries.

(4) Published and unpublished data.

(5) **Federal Register** notice announcing the decision not to require testing.

B. References

(1) USEPA. U.S. Environmental Protection Agency, Chemical Information Rule: Manufacturers reporting; Preliminary Assessment Information. (47 FR 26992). June 22, 1982.

(2) USEPA. U.S. Environmental Protection Agency, Protection of the Environment Chapter I. Environmental Protection Agency. Subchapter R—Toxic Substance Control, Part 716—Health and Safety Data Reporting. Submission of lists and copies of health and safety studies (47 FR 38780). September 2, 1982.

(3) USEPA. U.S. Environmental Protection Agency. Sixth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency; Receipt of the Report and Request for Comments Regarding Priority List of Chemicals. (45 FR 35897). May 28, 1980.

(4) USEPA. U.S. Environmental Protection Agency. Phenylenediamines; Response to Interagency Testing Committee. (47 FR 973). January 8, 1982.

(5) Sutta, B.E., Hardy, J., McCaleb, K.E., Millard, A.J., Pawlovich, A.A., Rich, P.A., Swett, L.B. Exposure pathways, manufacture, chemical integrity of phenylenediamine moiety, and substitutes for phenylenediamine compounds. SRI International, Washington, DC: U.S. Environmental Protection Agency. Technical Directive 1.3.1. June 19. Task A3 and A6. Contract No. 68-01-6016. 1981.

(6) Sutta, B.E., Hardy, J., McCaleb, K.E., Millard, A.J., Pawlovich, A.A., Rich, P.A., Swett, L.B. Preliminary assessment of exposure to 49 phenylenediamine compounds. SRI International, Washington, DC: U.S. Environmental Protection Agency. Contract No. 68-01-6016. 1981.

(7) MATHTECH, Inc. Draft economic evaluation: Phenylenediamines. Mathtech, Inc., Washington DC: U.S. Environmental Protection Agency. Contract No. 68-01-6630. 1983.

(8) Ciba-Geigy Corporation. TSCA Section 8(d) submission. Health and Safety data reporting under TSCA section 8(d), Final Rule (Additional Substances) published March 30, 1983. Acute Dermal Toxicity in Rabbits, primary dermal irritation in rabbits, report on rabbit eye irritation, acute oral toxicity in rats. 1978. Washington, DC., Office of Toxic Substances, U.S. Environmental Protection Agency.

(9) Eastman Kodak Co. Rochester, New York 14650. Letter to Gary Timm, Test Rules Development Branch, Existing Chemicals Assessment Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Washington, D.C. 29460. 1984.

This record, which includes the basic information considered by the Agency in developing this decision, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. E-107, 401 M St., SW, Washington, DC 20460. The Agency will supplement the record with additional relevant information as it is received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Thomas M. Lee,
Acting Administrator.
January 22, 1985.

[FR Doc. 85-2424 Filed 1-29-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-41001A; PH-FRL 2769-6]

Creosote, Pentachlorophenol, and Inorganic Arsenicals; Decision to Postpone Effective Dates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a Notice of Intent to Cancel registrations of pesticide products containing creosote, pentachlorophenol, and inorganic arsenicals (hereafter referred to collectively as "wood preservatives") which was published in the **Federal Register** of July 13, 1984 (49 FR 28666). The Notice, among other things, specified certain dates by which wood preservative products would be required to bear labeling revised to comply with the requirements imposed by the Notice. The Agency issued a notice, which was published in the **Federal Register** of October 31, 1984 (49 FR 43772), postponing the effective date of revised labeling requirements for those registrants who have filed applications for amended registrations. This notice announces the Agency's decision that persons other than registrants can sell and distribute existing stocks of both cancelled and uncancelled products bearing current labeling until further notice. Registrants of cancelled products may sell existing stocks only if the labeling is revised to comply with the requirements of the July 13 Notice.

EFFECTIVE DATE: January 30, 1985.

FOR FURTHER INFORMATION CONTACT:
By mail:
Carol E. Langley, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460
Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7401)

SUPPLEMENTARY INFORMATION:

I. Introduction

In the Wood Preservatives July 13, 1984 Notice of Intent to Cancel, the Agency specified dates by which registrants and other persons would be required to replace the labeling of wood preservative products with revised labeling which complied with the requirements of the Notice. The July 13 Notice required that registrants who had filed applications for amended registrations, in accordance with the requirements of that Notice, must revised their labeling by November 1, 1984, before they would be permitted to

continue to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver to any person (hereinafter "sell or distribute") the affected wood preservative products. The Agency required relabeling of existing stocks of such wood preservative products by February 1, 1985 for other persons. They July 13 Notice cancelled the products of registrants who neither requested a hearing nor filed an application for amended registration. Registrants could sell and distribute existing stocks of cancelled products only if they relabled the products by November 1, 1984. Other people who wished to continue to sell and distribute existing stocks of cancelled products had to relabel the products to conform with the Notice requirements by February 1, 1985.

Registrants of products for which a hearing has been requested do not have to revise their labels until a final order concerning the registrations of their products is issued at the end of the hearing. Sixty-one registrants, who would have been required to implement the label changes, have now challenged the changes specified by the cancellation notice. These hearing requests affect approximately 320 products. Another 25 registrants have made applications to amend the registrations of about 50 products. Other registrants did not take either of these actions, and their registrations were cancelled by operation of law.

On October 31, 1984, a notice was published in the **Federal Register** (49 FR 43772) which postponed the date by which product labels must be revised to comply with the requirements of the July 13 Notice for those registrants who filed an application for amended registration in accordance with the terms and conditions of the July 13 Notice. The Agency concluded in that notice that, unless some change is made in the dates by which revised labeling must be attached to products for which a hearing has not been requested, similar products will be classified as both general use and restricted use and may bear considerably different use instructions. Such a situation would result only in confusion to applicators and the public and would place an unfair competitive disadvantage on the registrant who voluntarily accepted EPA's registration changes.

The dates specified in the July 13, 1984 Notice, however, still controlled the sale and distribution of cancelled products and of products for which an amendment has been sought when those products are in the possession and control of a person other than the registrant. The Agency is concerned that there will be a competitive disadvantage to persons other than registrants who are holding for sale and distribution existing stocks of cancelled wood preservative products, or existing stocks of registered products which would require relabeling on February 1, 1985. Practically, the Agency expects that, if products bearing the old labeling and those relabeled to conform to the requirements of the July 13 Notice are both available for sale and distribution, those products bearing the old less restrictive labeling will be at a competitive advantage. There is also some concern that persons other than registrants who have existing stocks bearing the old labeling might improperly dispose of their products rather than make the label changes required by the July 13 Notice. Such disposal could cause significant risks to human health.

Therefore, the Agency has decided to postpone the effective date by which existing stocks of wood preservative products in the possession of persons other than registrants must be relabeled to comply with the terms and conditions of the July 13 Notice.

II. Postponement of February 1, 1985 Date for Persons Other Than Registrants.

Until further notice, products for which an amendment has been sought, pursuant to the requirements of the July 13 Notice, may continue to be sold and distributed by registrants and other persons without label modifications.

Likewise, existing stocks of cancelled wood preservative products which are in the possession of persons other than registrants do not have to be relabeled for sale and distribution until further notice. Registrants of cancelled products, however, are not legally permitted to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver to any person any cancelled product after the effective date of the product's cancellation. Existing stocks of cancelled products in the control or possession of registrants must be relabeled in accordance with the requirements of the July 13 Notice in order for these products to be sold or distributed.

As noted above, registrants of products for which a hearing has been requested do not have to revise their labels until a final order concerning the registrations of their products is issued at the end of the hearing.

At least 90 days before EPA will require a product subject to this notice to bear labeling revised to comply with the terms of the July 13 Notice, the Agency will issue a notice of the new effective dates to be published in the **Federal Register.**

Dated: January 25, 1985.

John A. Moore,

Assistant Administrator, for Pesticides and Toxic Substances.

[FR Doc. 85-2557 Filed 1-29-85; 8:45 am]
BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before March 18, 1985. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liaison Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Liaison Officer: Margaret P. Ulmer, Administrative Management Services, Room 386, 2401 E. Street NW., Washington, D.C. 20507; Telephone (202) 634-1947

OMB Reviewer: Jimmy Mason, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C., 20503; Telephone (202) 395-6880.

Type of Request: Extension (No change).

Title: Employer Information Report EEO-1.

Form Number: Standard Form 100.
Frequency of Report: Annually.
Type of Respondent: Private employers with 100 or more employees and certain Federal government contractors with 50 or more employees.
Standard Industrial Classification (SIC) Code: Multiple.
Description of Affected Public: IND/HHID and Farms and Business/INST.
Responses: 126,700.
Reporting Hours: 633,500.
Federal Cost: $600,000.
Applicable under Section 3504(h) of Public Law 96–511; Not applicable.
Number of Forms: 1.
Abstract-Needs/Users: EEO–1 data are used by EEOC to investigate charges of discrimination against employers in private industry. Data are shared with several Federal government agencies, particularly the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor. Under section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–1 data are also shared with approximately 127 State and local FEPC agencies.

Dated: January 24, 1985.

For the Commission.

Andy Fishel,

Acting Management Director, Equal Employment Opportunity Commission.

[FR Doc. 85–2295 Filed 1–29–85; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL MARITIME COMMISSION

Intent to Terminate Agreement

Agreement No.: 202–006080.
Title: The Atlantic and Gulf-Indonesia Conference.
Parties: Barber-Blue Sea Line, Lykes Bros. Steamship Co., Inc., A.P. Moller-Maersk Line.
Synopsis: By letter dated December 28, 1984, the Commission received the results of a telephone poll of the Atlantic and Gulf Indonesia Conference which unanimously agreed to terminate the agreement 15 days after the effective date of the Transpacific Westbound Rate Agreement (FMC No. 202–010689).

By Order of the Federal Maritime Commission.

Dated: January 25, 1985.

Francis Hurney,

Secretary.

[FR Doc. 85–2409 Filed 1–29–85; 8:45 am]

BILLING CODE 6730–01–M

Intent To Terminate Agreement

Agreement No.: 202–006060.
Title: Pacific/Indonesia Conference.
Parties: American President Lines, Ltd., A.P. Moller-Maersk Line.
Synopsis: By letter dated January 7, 1985, the parties provided notice of the cancellation of their agreement. Accordingly, the Commission hereby gives notice of its intent to terminate its previously granted approval of Agreement No. 202–006060 effective January 20, 1985.

Dated: January 25, 1985.

Francis C. Hurney,

Secretary.

By Order of the Federal Maritime Commission.

[FR Doc. 85–2410 Filed 1–29–85; 8:45 am]

BILLING CODE 6730–01–M

Intent to Terminate Agreement

Agreement No.: 202–005680.
Title: Pacific-Straits Conference.
Parties: American President Lines, Ltd., A.P. Moller-Maersk Line, Sea-Land Service, Inc.
Synopsis: By letter dated January 7, 1985, the parties provided notice of the cancellation of their agreement. Accordingly, the Commission hereby gives notice of its intent to terminate its previously granted approval of Agreement No. 202–005680 effective January 20, 1985.

Dated: January 25, 1985.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 85–2411 Filed 1–29–85; 8:45 am]

BILLING CODE 6730–01–M

Intent to Terminate Agreement

Agreement No.: 207–010037.
Title: Orient Overseas Line/Orient Overseas Container Line Ltd., Joint Service Agreement.
Parties: Orient Overseas Line, Orient Overseas Container Line, Ltd.
Synopsis: The parties to the referenced agreement have provided notice of the termination of the agreement. The Commission hereby gives notice of its intent to terminate its previously granted approval of Agreement No. 207–010037 effective July 10, 1984, the date the parties' termination notice was received.

Dated: January 25, 1985.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 85–2412 Filed 1–29–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Colt Investments, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities wil be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1985.

A. **Federal Reserve of Kansas City** (Thomas M. Hoeing, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colt Investments, Inc.*, Leawood, Kansas; to engage *de novo* through its subsidiary, Flint Hills Financial Services Corporation, Leawood, Kansas, in the activities of management consulting to depository institutions within a 75 mile radius of Emporia, Kansas; and to engage in the activity of acting as agent for the sale of general insurance in a community with a population not exceeding 5,000, in Americus, Kansas, and surrounding area. In this regard, Flint Hills Financial Services Corporation, Leawood, Kansas, has applied to engage directly in the activity of management consulting to depository institutions, and to engage in the activity of acting as agent for the sale of general insurance in a community with a population not exceeding 5,000, as listed above.

Board of Governors of the Federal Reserve System, January 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2302 Filed 1-29-85; 8:45 am]

BILLING CODE 6210-01-M

Hartford National Corp.; Application To Engage de Novo on Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21 (a)), to engage *de novo* through a state chartered bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closedly related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, idenifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than February 20, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Hartford National Corporation*, Harford, Connecticut; to engage through its existing state chartered subsidiary, Hartford Trust Company of New York, New York, in the activities of accepting time and demand deposits; and the making consumer loans. Hartford Trust Company will continue to engage in trust company activities. These activities would be performed in the State of New York.

Board of Governors of the Federal Reserve System, January 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2303 Filed 1-29-85; 8:45 am]

BILLING CODE 6210-01-M

Olde Windsor Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 21, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Olde Windsor Bancorp, Inc.*, Windsor, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Windsor Bank and Trust Company, Windsor, Connecticut.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *The Ogden Newspapers, Inc.*, Wheeling, West Virginia; to acquire 11.75 percent of the voting shares of Intermountain Bankshares, Inc., Charleston, West Virginia, thereby indirectly acquiring Kanawha Banking & Trust Company, N.A., Charleston, West Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *First American Bancshares, Inc.*, New Orleans, Louisiana; to become a bank holding company by acquiring 95.08 percent of the voting shares of American Bank & Trust Company, New Orleans, Louisiana.

2. *First National Bankshares, Inc.*, New Orleans, Louisiana; to acquire 50 percent of the voting shares of First American Bancshares, Inc., New Orleans, Louisiana, thereby indirectly acquiring American Bank & Trust Company, New Orleans, Louisiana.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Liberty Capital Corporation*, Hugo, Colorado; to acquire 100 percent of the voting shares of First National Bank of Limon, Limon, Colorado.

Board of Governors of the Federal Reserve System, January 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2304 Filed 1-29-85; 8:45 am]

BILLING CODE 6210-01-M

PT Investment Co.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of

the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1985.

A. **Federal Reserve Bank Of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **PT Investment Corporation,** Pawtucket, Rhode Island; to acquire Firestone Financial Corp., Newton Centre, Massachusetts, thereby engaging in the activities of making and servicing loans and leasing personal property.

Board of Governors of the Federal Reserve System, January 24, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-2305 Filed 1-29-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget: Statement of Financial Information

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: GSA has requested the Office of Management and Budget (OMB) to reinstate an information collection for which the approval has expired.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC. 20503, and to William W. Heibert, GSA Clearance Officer, General Services Administration (ATRAI) Washington, DC. 20405.

FOR FURTHER INFORMATION CONTACT: Edgar Davis (GSA), Office of Finance (566-1093).

SUPPLEMENTARY INFORMATION: a. *Purpose.* This information is used to prepare evaluations of financial responsibility of prospective contractors for the use of contracting officers.

b. *Annual reporting burden.* Respondents 5,000; responses 7,500; hours 15,000.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC. 20405 (202 566-0666).

Dated: January 22, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-2361 Filed 1-29-85; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84M-0414]

Siemens Medical Systems, Inc; Premarket Approval of the Magnetom

Correction

In FR Doc.84-33918 appearing on page 182 in the issue of Wednesday, January 2, 1985, make the following correction:

In the first column, in the **"ADDRESS"** paragraph, second line from the bottom, "6500" should have read "5600".

BILLING CODE 1505-01-M

Office of Child Support Enforcement

Child Support Enforcement Research and Demonstration Interstate Grants; Availability of Fiscal Year 1985 Funds

The Acting Director of the Office of Child Support Enforcement (OCSE) gives notice of the availability of Fiscal Year 1985 funds for projects in the area of interstate child support processes. Funding for grants is authorized under Pub. L. 98-378. In accordance with section 455(e)(4) of the Social Security Act as amended by section 8 of Pub. L. 98-378, amounts expended by a State in carrying out a project funded under this grant program will be considered as part of the grantee State's administrative expenditures for purposes of calculating incentive payments.

A notice was previously published on Septmeber 24, 1984, announcing the availability of FY 1985 funds for these projects. There will be two funding cycles for the remainder of FY 1965. The closing dates for the submission of grant applications will be March 29, 1985, and July 31, 1985. It is anticipated that grant awards will be issued within 90 days of the receipt of grant applications.

Program Purpose

Grants funded by OCSE under the Interstate Program are for research and demonstration projects which will add to existing knowledge and promote improvements or new methods and techniques in the area of interstate child support operations.

Program Goals

In general, OCSE intends to support the following types of projects through the Interstate Grants Program:

(1) Those which encourage States to develop efficient and effective ways of handling interstate cases.

(2) Those which augment and improve existing State efforts to pursue and respond to interstate efforts. Funds from this program are not available to supplant current State and local funding efforts.

(3) Those which develop, test, implement, and demonstrate new or innovative methods of interstate case processing.

(4) Those which show a high promise of ready transferability to other States and of producing verifiable knowledge of demonstration results through definitive evaluation.

Program Priorities for Research and Demonstration Funding

Research and demonstration projects will be directed toward broadly stated priorities derived from issues centering

around the administration of interstate child support processes. OCSE has identified priorities which reflect the major aims of the program's interstate processes.

Applicants may also submit proposals for projects not specifically identified in this announcement but which are relevant of OCSE interstate goals. Such proposals will compete for funding with those submitted for the priority areas listed below.

Program Priorities for Interstate Grants

Interstate grant applications should emphasize the development of innovative techniques that can eventually be generalized to the entire caseload. As a matter of general policy, OCSE intends to encourage experimentation and demonstration of ways of handling interstate cases in such a manner that they are integrated into the normal handling of a State's IV–D caseload. Examples of interstate program priorities are the following:

I. Development of innovative techniques in processing interstate cases such as:

A. Innovative communication techniques to include teleconferencing, electronic mail and other electronic means of moving information from one jurisdiction to another;

B. Interstate tracking and monitoring systems; and

C. Staffing patterns for interstate case processing-experimentation with combinations of specialization vs. generalization of the interstate function.

II. Development of innovative techniques for child support collections in interstate cases, especially in the area of application of mandatory procedures such as wage withholding. Also of interest are:

A. Use of credit reporting agencies;

B. Use of property liens;

C. User fees; and

D. Tax refund offsets.

III. Development of automated data processing and interstate systems components such as clearinghouses for the centralization of multi-state data bases and new data bases for interstate use.

Note.—OCSE does not contemplate funding for the purchase of ordinary computer hardware, which could be authorized under the 90 percent Federal matching for automated management systems.

IV. Development of innovative paternity establishment techniques in interstate cases such as methods for lowering the cost or increasing the use of parentage testing laboratories on a regional basis.

V. Other program ideas with an explicit interstate focus will be entertained for funding.

Applications should contain plans for comprehensive evaluation of the results of the demonstration. OCSE will also entertain plans for dissemination of results of the evaluation and lessons learned from the demonstration, as well as for an initial planning and research module, as long as these lead logically to demonstrations. These efforts can be planned as multi-year projects.

Eligible Applicants

Grants are to be awarded to the State agency responsible for administering the IV–D program. The IV–D agency can enter into cooperative arrangements with other State agencies within the State (e.g., Attorney General, State court system, etc.) but the grant recipient will remain responsible for financial and program management of the grant, for reports, auditing, and other normal grant functions. Applicants can also subcontract with private contractors for performance of work proposed in the grant application.

In addition to applications made by individual State agencies proposing to experiment with their own internal procedures for processing interstate cases, proposals may include demonstrations which involve one or several other State IV–D agencies. These proposals will require that the applicant State IV–D agency retain responsibility for the proper adminstration of the grant. Such applications must come from a single lead State that will assume the responsibilities of the grantee for tracking, monitoring, auditing, reporting and other grant administrative functions. These applications should contain explicit information on the activities and responsibilities of each of the participating States and a detailed budget for each State. The application should show evidence of agreeament of each of the participating States in the grant activity. Expenses incurred by the grant recipient in administering and evaluating the project activity can be allocated to the budgets of the other participating States on some equitable basis, so that the grant recipient State need not assume the total cost of the grant for purposes of calculating incentive payments.

Availability of Funds

It is anticpated that up to $7 million will be available for funding interstate grants in FY 1985. For planning purposes, OCSE anticipates awarding 15–20 grants ranging from $350,000 to $465,000 each. The amounts of the grants may vary according to the scope and merit of the individual application and are quoted as projected averages for the first year of the program.

Grantee's Share of Project Cost

Grant recipients receiving assistance to conduct these projects are expected to contribute towards the project costs. Generally, 5 percent of the total cost of the activity is considered acceptable. No grant will be awarded that covers 100 percent of the project's costs. Cash or in-kind contributions may be used to satisfy this requirement.

Waivers

Waivers of certain provisions of part D of title IV of the Social Security Act may be granted for the conduct of these demonstrations. The requests for such waivers may be included in the grant proposal.

The Application Process

1. *Availability of application forms.* Application kits containing the prescribed application forms and related documents are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, 1–C–1 Dogwood West Building, 1848 Gwynn Oak Avenue, Balitmore, Maryland 21207. Telephone: (301) 594–0284, Lawrence H. Pullen, Chief, Grants Management Branch.

2. *Application submission.* To be considered for a grant award, all applications must be submitted on standard forms provided by the Divison of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant.

3. *Application consideration.* Applications are initially screened for relevance to interstate child support concerns. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three persons.

4. *Application approval.* Following approval of the applications selected for funding, financial assistance awards will be issued within limits of Federal funds available. The official grant document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the Award, the budget period for which support is given, the terms and conditions of the award, the total project period for which support is contemplated, and the total grantee financial participation.

5. *Additional information.* For questions concerning project development please contact John K. Maniha, Office of Child Support Enforcement, Room 931A, 6110 Executive Boulevard, Rockville, MD 20852, (301) 443–2980.

Criteria for Review and Evaluation of Applications

Applications will be reviewed and evaluated by a review panel against the following criteria:

1. *Project Design and Evaluation Methodology.* Feasibility and coherence of the project design and the quality of its evaluation component. (30 points);

2. *Knowledge.* Knowledge about possible alternative solutions to interstate problems, background presentation material, statement of the problem, and general grasp of the proposed solution. (10 points);

3. *Innovation.* Degree to which the application shows evidence of breaking new ground or presenting new solutions to interstate case problems. (25 points);

4. *Relevance and Applicability.* Relevance of proposal to OCSE's interstate priorities and goals, the degree to which the proposed solution could be transferred to other States. Does the application make sense and can it be done? (20 points); and

5. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. Is the project cost effective? Are the costs reasonable and adequately described considering the anticipated results? Are the applicant's facilities and resources adequate? (15 points)

Closing Dates and Times

For FY 1985 projects, the remaining closing dates for submission of applications are March 29, 1985, and July 31, 1985. Applications not received by the deadline date of one cycle of funding will be held for review during the next cycle.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, 1–C–1 Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, MD 21207.

Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, on or prior to the established closing dates.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Executive Order 12372—Intergovernmental Review of Federal Programs

These grant activities are not covered by the requirements of Executive Order 12372 relating to the Federal policy for consulting with State and local elected officials in proposed Federal financial assistance.

Dated: January 23, 1985.

Martha A. McSteen,

Acting Director, Office of Child Support Enforcement.

[FR Doc. 85–2382 Filed 1–29–85; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U–39711; 5–22738 I–LM]

Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), and Pub. L. 98–452, dated October 4, 1984, required back rentals accruing from January 30, 1980, for oil and gas lease U–39711 have been paid timely. Pub. L. 98–452 specifically allows extension of lease U–39711.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔%, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U–39711 as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective March 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–2309 Filed 1–29–85; 8:45 am]

BILLING CODE 4310–DQ–M

Intent to Complete a Planning Analysis/Environmental Assessment for Public Lands and Resources in Kansas; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Request for Public Comments for the Planning Analysis/Environmental Assessment.

SUMMARY: Issues proposed for inclusion are:

(1) Disposal of public land surface parcels.

(2) Oil and Gas leasing and development on lands with federal minerals and private surface.

(3) Future reversion of mineral estate of some parcels to the U.S. Government.

Proposd Planning Criteria Are

A. Land Disposal

(1) Public lands may be retained in Federal ownership or transferred to a State or local entity if important public values exist that must be protected.

(2) Public lands may be offered for sale or transferred out of Federal ownership when this will serve important public objectives outweighing objectives and values that would be served by maintaining such lands in Federal ownership.

(3) Public lands may be offered for sale when such lands, because of location or other characteristics are difficult and uneconomical to manage, and are not suitable for management by another Federal, State or local public entity.

(4) The rights of permittees, lessees, and adjoining landowners must be considered in any disposal action.

(5) Decisions resulting from the planning analysis will be consistent with plans and programs of other government entities.

(6) The effects to other resources must be assessed adequately prior to the initiation on any land disposal action.

B. Oil and Gas

(1) Oil and gas leasing is allowable except where prohibited by existing law or regulation.

(2) No surface occupancy will be stipulated when irreversible degradation of one or more of the resource values listed is unavoidable.

a. Threatened or endangered plant and animal species habitats.

b. Crucial or important seasonal habitats of game species and Federal/State high interest species.

c. Visual resources.

d. Water quality, especially public water supplies.

e. Floodplains, alluvial valley floors, and wetlands.

f. Air quality, noise levels, and public safety.

g. Cultural and historic resources.

h. Developed recreation areas.

i. Special areas of critical environmental concern.

j. Prime, unique farmlands.

(3) Seasonal restrictions will be applied to those areas where wildlife mitigation is required.

(4) All other areas will require only standard lease stipulations as stated on BLM Form 3100-11 (March 1984).

Alternatives Proposed for Consideration Include

(1) A proposed plan whereby all BLM administered public lands would be transferred or sold to other Federal, State, local, or private entities; and all federal mineral estate would be subject to leasing with standard stipulations except where other Federal agencies, tribal councils, or Congress have proposed special stipulations or no leasing.

(2) A continuation of current management whereby BLM administered public surface would be retained subject to applications under the public land laws. Mineral leasing would be continued on a case by case review basis.

(3) Complete retention of public surface lands under BLM administration, and no leasing of federal minerals.

(4) A fourth alternative will be developed based on public input received. Following public input, a Planning Analysis/Environmental Assessment will be prepared on these alternatives for Governor's consistency review and public protest prior to implementation of one of the land and resource alternative plans.

DATES: This notice initiates a 60 day public comment period.

ADDRESS: Comments should be addressed to: Frank Young, Area Manager, Bureau of Land Management, Northeast Resource Area, Denver Federal Center, Bldg. 41, Denver, CO 80225 (303) 236-4399.

All maps and documents concerning this Planning Analysis are available at the above location. Those wishing to be placed on the mailing list should notify the above office.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 85-2298 Filed 1-29-85; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-169, 171, 177, 178, 180, and 182 (Final)]

Certain Carbon Steel Products From Australia, Finland, and Spain

AGENCY: International Trade Commission.

ACTION: Termination of investigations.

SUMMARY: On January 18, 1985, the Commission received letters from petitioner in the subject investigations (United States Steel Corp.) which stated, with respect to each of the cited investigations, that "* * * U.S. Steel is this date withdrawing its * * * petitions without prejudice and hereby requests the International Trade Commission to terminate its final injury investigation * * *" Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigations are terminated:

Carbon Steel Plates Not in Coils from Finland (investigation No. 731-TA-169 (Final));

Carbon Steel Plates Whether or not in Coils from Spain (investigation No. 731-TA-171 (Final));

Cold-Rolled Carbon Steel Plates and Sheets from Spain (investigation No. 731-TA-177 (Final));

Galvanized Carbon Steel Sheets from Australia (investigation No. 731-TA-178 (Final)) and Spain (investigation No. 731-TA-180 (Final)); and

Carbon Steel Structural Shapes from Spain (investigation No. 731-TA-182 (Final)).

EFFECTIVE DATE: January 22, 1985.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone (202-523-0301), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

Authority: These investigations are being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: January 25, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-2406 Filed 1-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Certain Double-Sided Floppy Disk Drives and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on December 6, 1984, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Tandon Corporation, 20320 Prairie Street, Chatsworth, California 91311. Supplements to the complaint were filed on December 21 and 27, 1984 and January 7, 1985. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain double-sided floppy disk drives and components thereof into the United States, or in their sale, by reason of alleged direct, induced, and contributory infringement of the claims of U.S. Letters Patent 4,151,573. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an efficiently and economically operated domestic industry and to prevent the establishment of a nascent sub-industry in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and temporary cease and desist orders. After a full investigation, the complainant requests that the Commission issue a permanant exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Victoria L. Partner, Esq., or Robert D. Litowitz, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-1088 or 202-523-4693, respectively.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on January 22, 1985, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain double-sided floppy disk drives and components thereof into the United States, or in their sale, by reason of alleged direct, induced, and contributory infringement of the claims of U.S. Letters Patent 4,151,573, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) Pursuant to section 210.24(e) of the Commission's rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on December 6, 1984, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to section 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is Tandon Corporation, 20320 Prairie Street, Chatsworth, California 91311.

(b) The respondents the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Mitsubishi Electric Corporation, 2–3, Marunouchi 2-chome, Chiyoda-ku, Tokyo 100, Japan
TEAC Corporation, 3–7–3, Naka-cho, Masashino, Tokyo 180, Japan
Sony Corporation, 6–7–35–Kita-Shinagawa, Shinagawa-Ku, Tokyo 141, Japan
Mitsubishi Electronics America, Inc., 991 Knox Street, Torrance, California 90502
TEAC Corporation of America, 7733 Telegraph Road, Montebello, California 90640
Sony Corporation of America, 700 W. Artesia Blvd., Compton, California 90220

(c) Victoria L. Partner, Esq., and Robert D. Litowitz, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street N.W., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorneys, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge. Pursuant to section 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding administrative law judge shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

(5) The following entities are not named as respondents in this investigation but shall be served with a copy of the notice of investigation, the complaint, and § 210.26 of the rules:

Alps Electric Co., Ltd., 1–7, Yukigawa Ohtsuka-cho, Ohta-ku, Tokyo 145, Japan
Fujitsu Ltd., Furukawa Sogo Building, 6–1, Marunouchi, 2-chome, Chiyoda-ku, Tokyo 100, Japan
Matsushita Communication Industrial Co., Ltd., 4–3–1 Tsunashima-Higashi, Kohoku-ku, Yokohama 223, Japan
Matsushita Electric Industrial Co., Ltd., 1006, Kadoma, Kadoma City, Osaka 571, Japan
NEC Corporation, 33–1 Shiba Gochome, Minato-ku, Tokyo 108, Japan
Ricoh Co., Ltd., 1–3–6 Naka-Magome, Ohta-ku, Tokyo 143, Japan
Tokyo Electric Co., Ltd., 14–10 1-chome Uchikanda, Chiyoda-ku, Tokyo 100, Japan
Toshiba Corporation, 1–6, Uchisaiwaicho 1-chome, Chiyoda-kw, Tokyo 100, Japan.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21 as amended, 49 FR 46123). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and motion for temporary relief, except for any confidential information contained therein, 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., Room 156, Washington, D.C. 20436, telephone 202/523–0471.

Issued: January 24, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–2405 Filed 1–29–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–184]

Certain Foam Earplugs; Commission Decision Not To Review Initial Determination; Deadlines for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the administrative law judge's initial determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) 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. Comments from other interested persons will also be accepted.

SUMMARY: On November 30, 1984, the administrative law judge (ALJ) issued an initial determination that there is a violation of section 337 in the importation and sale of certain foam earplugs. No petitions for review of agency comments were received. Having examined the record in this investigation, including the initial determination of the ALJ, the Commission has determined not to review the initial determination. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCure Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0079.

SUPPLEMENTARY INFORMATION:

Consideration of imports of settled respondents.

The Commission notes its agreement with the ALJ that the imports of certain

respondents terminated from the investigation on the basis of settlement agreements should be considered in determining whether substantial injury or tendency to substantially injure exists. For the imports of settled respondents to be considered, there must be a finding of an unfair act with respect to the articles imported by the settled respondents. In this investigation, those imports were found by the ALJ to be infringing a valid U.S. patent. This is unlike the circumstance in *Certain Bag Closure Clips*, Inv. No. 337–TA–170, where findings concerning unfair acts by settled respondents were not made. 49 FR 35872 (1984).

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 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 and 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 to 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 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. 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 fourteen (14) days from the date this notice appears in the **Federal Register**.

Within seven (7) days after the fourteen day deadline for filing comments has expired, any person or agency may file a response to the comments submitted. No further comments will be permitted.

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 deadlines 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 ALJ. All such requests should be directed to the Secretary to the Commission and must include a 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 29, 1984 (49 FR 7464).

Public Inspection

Copies of the nonconfidential version of the ALJ's initial determination 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.

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 sections 210.53–.56 of the Commission's Rules of Practice and Procedure (19 210.53–.56, as amended by 49 FR 46123 (November 23, 1984); to be codified at 19 CFR 210.53–.56).

Issued: January 22, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–2404 Filed 1–29–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–55]

Nonrubber Footwear

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Following receipt of a resolution of the Committee on Finance of the United States Senate on December 31, 1984, and upon consideration of all relevant data, including data contained in Nonrubber Footwear Quarterly Statistical Report to the Senate Committee on Finance on Investigation No. 331–191, USITC Publication 1670 (December 1984) and data contained in a January 3, 1985 submission by Footwear Industries of America, Inc., et al., and a January 4, 1985 submission by the Volume Shoe Corp., the United States International Trade Commission found good cause to institute investigation No. TA–201–55 under section 201 of the Trade Act of 1974 to determine whether nonrubber footwear, provided for in items 700.05 through 700.45, inclusive, 700.56, 700.72 through 700.83, inclusive, and 700.95 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantitites as to be a substatial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Pursuant to section 201(d)(2) of the Act (19 U.S.C. 2251(d)(2)) the Commission will make its determination in this investigation by July 1, 1985.

EFFECTIVE DATE: December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Dan Dwyer (202–523–4618), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

For further information concerning the conduct of this investigation, hearing procedures, rules of general application,

consult the Commission's Rules of Practice and Procedures, part 206, subparts A and B (19 CFR part 206), and part 201, subparts A through E (19 CFR part 201).

SUPPLEMENTARY INFORMATION

Particpation in the investigation:

Persons wishing to particpate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on April 16, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 5, 1985. All persons desiring to appear at the hearing and make oral presenations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on April 8, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 8, 1985. Posthearing briefs must be submitted not later than the close of business on April 23, 1985. Confidential material should be filed in accordance with the procedures described below.

Parties are encouraged to limit their testimony at the hearing to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see section 201.6(b)(2) of the Commission's rules (19 CFR § 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submission

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 23, 1985. A signed and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). 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 to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeld "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Remedy

In the event that the Commission makes an affirmative injury determination in this investigation, remedy briefs will be due to the Secretary no later than the close of business on May 28, 1985, and must conform with the requirements of § 201.6 of the Commission's rules.

Authority

This investigation is being conducted under the authority of section 201 of the Trade Act of 1974. This notice is published pursuant to 201.10 of the Commission's rules (19 CFR 201.10).

Issued: January 23, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-2407 Filed 1-29-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-193]

Certain Rowing Machines and Components Thereof; Commission Decision Not to Review Initial Determinations Terminating Two Respondents; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of two respondents on the basis of complainant's motion to withdraw complaint as to those respondents.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondents Lotus Enterprise Company, Ltd. and Pan's World International in the above-captioned investigation. As Lotus and Pan's World are the last remaining respondents in the investigation, their termination terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: On November 2, 1984, complainant Precor, Incorporated filed a motion (Motion No. 193-19) to terminate respondents Lotus Enterprise Company, Ltd. and Pan's World International in the above-captioned investigation based on complainant's motion to withdraw its complaint as to those respondents. The administrative law judge issued an ID granting the motion for termination of those two respondents and terminated the investigation on November 27, 1984. No petitions for review of the ID were filed nor were any comments received from Government agencies.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule § 210.53 (19 CFR 210.53).

Copies of the ID 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.

Issued: January 22, 1985.

By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 85-2403 Filed 1-29-85; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Rexon Industrial Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 22, 1985.

Copies of the initial determination, the consent order agreement, 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.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: January 22, 1985.
By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 85-2402 Filed 1-29-85; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub.140X)]

Seaboard System Railroad, Inc., Abandonment Exemption in Duval County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Seaboard System Railroad, Inc., of approximately 5.4 miles of track in the City of Jacksonville, Duval County, FL, subject to conditions for protection of employees.

DATES: This exemption is effective on January 30, 1985. Petitions to reopen must be filed by February 19, 1985.

ADDRESSES: Send pleadings referring to AB-55 (Sub-No. 140X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227 Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 23, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

James H. Bayne,
Secretary.

[FR Doc. 85-2417 Filed 1-29-85; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that pursuant to Section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to Bellcore and (2) the nature and objectives of Bellcore. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to Bellcore, and its general areas of planned activities, are given below.

Bellcore is a joint venture corporation, consisting of the following shareholders:

1. Ameritech Services, Inc.
2. Bell Atlantic Management Services, Inc.
3. BellSouth Services Incorporated.
4. NYNEX Service Company
5. Pacific Bell.
6. Southwestern Bell Telephone Company.
7. The Mountain States Telephone and Telegraph Company (.481 Share).[1]

Northwestern Bell Telephone Company (.290 Share).[1]

Pacific Northwest Bell Telephone Company (.299 Share).[1]

Each of these shareholders is either a first or lower-tier subsidiary of one of the following Regional Holding Companies resulting from the AT&T divestiture. (Their affiliated Operating Telephone Companies affiliated with each Regional Holding Company are also listed):

A. American Information Technologies Corporation.

Operating Telephone Companies (Owned by American Information Technologies Corporation).

1. Illinois Bell Telephone Company.
2. Indiana Bell Telephone Company, Incorporated.
3. Michigan Bell Telephone Company.
4. The Ohio Bell Telephone Company.
5. Wisconsins Bell, Inc.

B. Bell Atlantic Corporation.

[1] The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company are deemed collectively as one shareholder of Bellcore for all purposes.

Operating Telephone Companies (Owned by Bell Atlantic Corporation).
1. New Jersey Bell Telephone Company.
2. The Bell Telephone Company of Pennsylvania.
3. The Chesapeake and Potomac Telephone Company.
4. The Chesapeake and Potomac Telephone Company of Maryland.
5. The Chesapeake and Potomac Telephone Company of Virginia.
6. The Chesapeake and Potomac Telephone Company of West Virginia.
7. The Diamond State Telephone Company.
C. BellSouth Corporation.
Operating Telephone Companies (Owned by BellSouth Corporation).
1. South Central Bell Telephone Company.
2. Southern Bell Telephone and Telegraph Company.
D. NYNEX Corporation.
Operating Telephone Companies (Owned by NYNEX Corporation.)
1. New York Telephone Company.
2. New England Telephone and Telegraph Company.
E. Pacific Telesis Group.
Operating Telephone Companies (Owned by Pacific Telesis Group).
1. Pacific Bell.
2. Nevada Bell.
F. Southwestern Bell Corporation.
Operating Telephone Companies (Owned by Southwestern Bell Corporation).
1. Southwestern Bell Telephone Company.
G. U S WEST, Inc.
Operating Telephone Companies (Owned by U S West, Inc.)
1. The Mountain States Telephone and Telegraph Company.
2. Northwestern Bell Telephone Company.
3. Pacific Northwest Bell Telephone Company.

Bellcore has also entered into service agreements with two nonowners—Southern New England Telephone Company and Cincinnati Bell, Inc.

Bellcore conducts research and development activities in fields relevant to telecommunications technologies to enable the above-listed Operating Telephone Companies to maintain high quality and technologically up-to-date network capabilities to support their provision of exchange and exchange access telecommunications services.

Bellcore's activities include research in such fields as physical science, computer science, mathematics and switching and transmission technologies. Bellcore also provides engineering and innovative software development support to the Operating Telephone Companies, helping to extend research findings to new technological applications in their networks.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-2416 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Bethlehem Steel Co. and United States Steel Corp.

Notice is hereby given that pursuant to Section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), Bethlehem Steel Corporation and United States Steel Corporation have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing that the two companies have entered into a Cooperative Agreement with the United States Department of Energy to conduct research and development, and disclosing the nature and objectives of that agreement. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the agreement and its general areas of planned activities are given below.

The parties to this agreement are:

Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016

United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230

The purpose of the agreement is to conduct research activities directed to the continuous casting of thin sections (¼" to 2" thick) of steel and to license any resulting inventions or data. The research activities will be conducted under U.S. Department of Energy Cooperative Agreement No. DE-FC07-841D12545.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-2414 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Semiconductor Research Corp.

Notice is hereby given that pursuant to Section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), Semiconductor Research Corporation ("SRC") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identifies of the parties to SRC and (2) the nature and objectives of SRC. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identifies of the parties to SRC, and its general areas of planned activity, are given below.

SRC is a joint venture in the form of a non-profit corporation which is comprised of the following members:

Advanced Micro Devices, Incorporated
AT&T Technologies, Incorporated
Burroughs Corporation
Control Data Corporation
Digital Equipment Corporation
E.I. du Pont de Nemours & Company
Eastman Kodak Company
Eaton Corporation
E-Systems, Incorporated
GCA Corporation
General Electric Corporation
General Instrument Corporation
General Motors Corporation
Goodyear Aerospace Corporation
GTE Laboratories, Incorporated
Harris Corporation
Hewlett Packard Company
Honeywell, Incorporated
IBM Corporation
Intel Corporation
LSI Logic Corporation
Monolithic Memories, Incorporated
Monsanto Company
Motorola, Incorporated
National Semiconductor Corporation
Perkin-Elmer Corporation
RCA Corporation
Rockwell International Corporation
Semiconductor Equipment and Materials Institute (SEMI), Incorporated, Chapter [1]
Silicon Systems, Incorporated
Sperry Corporation
Texas Instruments, Incorporated
Union Carbide Corporation
Varian Associates, Incorporated
Westinghouse Electric Corporation
Xerox Corporation
Zilog, Incorporated

SRC's purpose is to plan, promote, coordinate, sponsor, and conduct research supportive of the semiconductor industry and directed toward:

1. Increasing knowledge of semiconductor materials and phenomena, and of related scientific and engineering subjects that are required for the useful application of semiconductors;

[1] The SEMI, Incorporated, Chapter comprises the following companies: Micro Mask, Incorporated; Pacific Western Systems, Incorporated; Probe-Rite, Incorporated; and Pure Aire Corporation.

2. Developing new and more efficient designs and manufacturing technologies for semiconductor devices;

3. Identifying directions, limits, opportunities, and problems in generic semiconductor technologies;

4. Increasing the number of scientists and engineers proficient in research, development, and manufacture of semiconductor devices;

5. Increasing industry-university ties, establishing university semiconductor research centers with major long-term research thrusts, and developing university semiconductor research activities with more precisely defined, short-term objectives;

6. Developing more relevant graduate school education and a larger supply of graduate students in areas related to semiconductor technology;

7. Increasing the ability of universities to attract and retain competent faculty in the semiconductor fields;

8. Decreasing fragmentation and redundancy in United States semiconductor research;

9. Establishing advanced research efforts for critical semiconductor technology areas that are beyond the individual resources of many SRC members;

10. Promoting efficient communication of research results to SRC members and to the United States semiconductor community as a whole.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-2415 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Aerojet Strategic Propulsion Co.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 18, 1984, Aerojet Strategic Propulsion Company, Highway 50 at Hazel Avenue, P.O. Box 15699C, Sacramento, California 95813, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance Tetrahydrocannabinols (7370).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 1, 1985.

Dated: January 22, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-2312 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Dupont Pharmaceuticals; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 14, 1984, Dupont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 1, 1985.

Dated: January 22, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration

[FR Doc. 85-2310 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Eli Lilly Industries, Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 15, 1984, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaquez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 1, 1985.

Dated: January 22, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-2315 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Mallinckrodit Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 24, 1984, Mallinckrodt, Inc. Department CB, Mallinckrodt, and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Nalmefene (9431).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice,

1405 I Street NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 1, 1985.

Dated: January 22, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-2311 Filed 1-29-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

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 January 14, 1985–January 18, 1985.

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 or 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 indicates that increased imports did not contribute importantly to worker separations at the firm.

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-15, 534; ASARCO, Inc., Tacoma Smelter, Tacoma, WA

TA-W-15; 520; General Electric Co., Lousiville, KY

TA-W-15; 523; Weyerhaeuser Co., Twin Harbors Region, Raymond Woods Div., Raymond, WA

TA-W-15; 525; Weyerhaeuser Co., Northern Washington Region, PE-ELL Woods, Chehalis, WA

In the following case the investigation revealed that criterion (3) has not been met for the reason specified.

TA-W-15; 508; Gould & Scammon, Inc., Auburn, ME

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of shoe counters are negligible.

Affirmative Determinations

TA-W-15; 546; White Sundstrand Machine Tool Co., Liverpool, NY

A certification was issued covering all workers separated on or after October 25, 1983 and before December 31, 1984.

TA-W-15; 524; Weyerhaeuser Co., Raymond Small Log Mill, Raymond, WA

A certification was issued covering all workers separated on or after June 1, 1984 and before December 31, 1984.

TA-W-15; 494; RCA Corp., Consumer Electronics Div., Bloomington, IN

A certification was issued covering all workers engaged in the production of videodisc players separated on or after March 1, 1984 and before August 1, 1984.

TA-W-15; 547; Zenith Electronics Corp., Cable Products Div., Chicago, IL

A certification was issued covering all workers engaged in employment related to the production of decoder boxes separated on or after February 1, 1984.

TA-W-15; 548; Zenith Electronics Corp., Cable Products Div., Glenview, IL

A certification was issued covering all workers engaged in employment related to the production of decoder boxes separated on or after September 1, 1984.

TA-W-15; 549; Zenith Electronics Corp., Cable Products Div., Mt. Prospect, IL

A certification was issued covering all workers engaged in employment related to the production of decoder boxes separated on or after December 1, 1984.

TA-W-15; 478; Miller, Hess and Co., Inc., Akron, PA

A certification was issued covering all workers separated on or after January 1, 1984.

TA-W-15; 478A; Miller, Hess and Co., Inc., Middletown, PA

A certification was issued covering all workers separated on or after January 1, 1984.

TA-W-15; 478B; Miller, Hess and Co., Inc., Leola, PA

A certification was issued covering all workers separated on or after January 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period January 14, 1985–January 18, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 22, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustments Assistance.

[FR Doc. 85-2355 Filed 1-29-85; 8:45 am]

BILLING CODE 4510-30-M

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 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 February 9, 1985.

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 February 9, 1985.

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, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of January 1985.
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
A&C Wood Turnings (company)	Ceda Brook, NJ	1/10/85	1/2/85	TA-W-15,686	Goods, sporting, martial arts.
Adelaide Mills, Inc. (workers)	Anniston, AL	12/24/84	12/14/84	TA-W-15,687	Yarn, cotton and cotton snythetic.
Corona Plastics, Inc. (Company)	Denville, NJ	12/21/84	12/11/84	TA-W-15,688	Cases, cosmetic, plastic, item, sundry.
Dynapac Manufacturing, Inc. (UAW)	Stanhope NJ	1/10/85	1/7/85	TA-W-15,689	Equipment, rolling, heavy, compactors, vibratory.
Elegant Creations (ILGWU)	Bloomfield, NJ	12/21/84	12/17/84	TA-W-15,690	Dresses.
Eli's Place, Ltd. (ILGWU)	New York, NY	1/2/85	12/27/84	TA-W-15,691	Clothing.
F&L Fashions, Inc. (ILGWU)	New York, NY	1/2/85	12/28/84	TA-W-15,692	Blouses, ladies.
Hamilton Sportswear (ILGWU)	Elizabeth, NJ	12/21/84	12/17/84	TA-W-15,693	Jackets, suit, ladies.
Hunt-Wgpson Foods (UFCW)	Bayonne, NJ	1/3/85	12/14/84	TA-W-15,694	Oil, Vegetable, products.
Lowndes Coat Co. (workers)	E. Northport, NY	1/3/85	12/26/84	TA-W-15,695	Coats, suits, ladies.
Southwestern Portland Cement Co. (USWA)	El Paso, TX	12/21/84	12/10/84	TA-W-15,696	Cement, bulk, sack.
United States Steel Corporation, Treesury International (company).	New York, NY	1/14/85	11/9/85	TA-W-15,697	Service group for headquarters.
Westinghouse Electric Corp., Appliance Motor Division Plant No. 1 (workers).	Bellefontaine, OH	1/7/85	1/10/85	TA-W-15,698	Motors, appliance, small.

[FR Doc. 85-2354 Filed 1-29-85; 8:45 am]
BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Announcement of Availability of funds for the Provision of Legal Services in the State of Louisiana

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) announces the availability of grant funds for the provision of legal services to eligible clients residing in the Louisiana parishes of Catahoula, Concordia, and La Salle.

DATE: All applications for grant funds must be received on or before March 1, 1985.

FOR FURTHER INFORMATION CONTACT: Gail D. Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, N.W., Washington, D.C., 20005; (202)272-4080.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation, the national, independent organization charged with implementing the federally-funded system of legal services for low income people, announces the availability of grant funds for the provision of legal services to eligible clients residing in the Louisiana parishes of Catahoula, Concordia, and La Salle.

The annualized level of Legal Services Corporation funding for the service area is $123,354 for calendar year 1985. The exact level of funding for the remainder of 1985 will be contingent on staff recommendations concerning the successful applicant's needs.

All groups and persons interested in applying for this grant should request a grant application from the Grants Assistant, Grants and Budget Unit, Office of Field Services, 733 Fifteenth Street, N.W., Washington, D.C. 20005. Subsequent to the application deadline, March 1, 1985, a public hearing may be held at which applicants and other interested parties can make presentations regarding provision of legal services in the service area.

Three copies of the application should be submitted to the Regional Director, Atlanta Regional Office, 915 Peachtree Street, N.E., Ninth Floor, Atlanta, Georgia 30308; and, one copy of the grant application should be sent to the Grants Assistant at the Washington D.C. address noted above.

Any grant application recommended by the Legal Services Corporation will, pursuant to section 1007(f) of the LSC Act, be announced in the **Federal Register**, and additional comments and recommendations will be requested at least thirty days prior to final approval of the grant.

Donald P. Bogard,
President.
January 24, 1985.
[FR Doc. 85-2366 Filed 1-29-85; 8:45 am]
BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. -463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and Time: February 15, 1985, 9:00 AM to 5:00 PM; February 16, 1985, 9:00 AM to 3:00 PM

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. C. William Kern, Acting Division Director, Division of Chemistry, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-7947.

Summary Minutes: May be obtained from Dr. C. William Kern.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in chemistry. There will be working sessions of three subcommittees *(Conceptual Synthesis and Interdisciplinary Outreach, Core Research,* and *Education)* drafting sections of a report to provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: Open-Discussion of the current status and future plans of the Chemistry Division's activities. Analyzing relevant issues and facts and the preparation of option papers.

Dated: January 25, 1985.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 85-2356 Filed 1-29-85; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Baltimore Gas and Electric Co.; Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50-317 and 50-318]

The U.S. Nuclear Regulatory Commission (the Commission) is considering the granting of an

exemption from certain requirements of Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." The proposed exemption involves the schedular requirements for the Type A reactor containment Integrated Leak Rate Test (ILRT) as specified in 10 CFR Part 50, Appendix J, Section III.D.1.(a).

Environmental Assessment

Identification of Proposed Action

The requirements of Appendix J of 10 CFR Part 50 section III.D.1(a) state "* * * a set of three Type A tests shall be performed at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted during the shutdown for the 10-year plant inservice inspection."

The currently scheduled 10-year Inservice Inspection (ISI) outage would be in the fall of 1986 for Unit 1 and in the spring of 1987 for Unit 2. Performance of the third ILRT during the 10-year ISI outage which is required by Appendix J would result in the violation of the 40±10 month interval required by Technical Specification 4.6.1.2a. Accordingly, the licensee has requested a "one time only" change to the ILRT schedule to allow the third ILRT to be conducted during the spring 1985 and fall 1985 refueling outages for Units 1 and 2, respectively, and thus earlier than indicated by Appendix J.

The Need for the Proposed Action

The granting of the requested exemption from the Type A schedule requirements would allow the licensee to maintain the 40 ± 10 month test interval required by Technical Specification 4.6.1.2a.

Environmental Impacts of the Proposed Action

Our evaluation of the proposed request for exemption from the Type A test schedule requirements indicates that the exemption will not, in any way, reduce the integrity of the containment systems. Accordingly, post-accident radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents, and there is no significant increase in occupational exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Relating to Operation of Calvert Cliffs Nuclear Power Plant Units 1 and 2" dated April 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated September 14, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 22nd day of January, 1985.

For the Nuclear Regulatory Commission.

Domenic Vassallo,

Acting Assistant Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-2383 Filed 1-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the license) for operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, located in Goodhue County, Minnesota.

The proposed amendment would change the technical specification (TS) section 3.3.D.2c dealing with the allowable inoperable period of the cooling water headers of the service water system. The TS allows one of the two required cooling water headers to be out of service for a period not to exceed 24 hours. The proposed change would extend this 24 hour period to 72 hours.

These revisions to the technical specifications would be made in response to the licensee's application for amendments dated January 18, 1985.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870).

One example of this type is (vi): "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in same way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan". The proposed change falls into this category in that, by extending the inoperable period of the cooling water header, it could in small measure increase the probability of a previously analyzed accident but the change is clearly within all acceptable criteria set forth in the Standard Technical Specifications (NUREG-0452). In addition, the reason for only a slight increase in the probability of a previously analyzed accident is that a second parallel system must be operable and if it fails, the plant must be brought to cold shutdown. The licensee presently has a loose part in the cooling water header of the service water system. Results of the detailed planning for the removal of the loose part in the cooling water header which was not completed until January 16, 1985 showed that removal of the loose part would require the cooling water loop A to be out of service in excess of 24 hours. The licensee notified the Commission immediately by telephone followed by a formal technical specification change request within 48 hours.

Therefore, based on these considerations and the criteria given above, the Commission has made a proposed determination that the

amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in undesirable plant conditions after Unit 1 startup. Furthermore failure to process the proposed change in an expedited manner will result in extending the present Unit 1 shutdown coincident with the shutdown of Unit 2. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendments.

If the Commission decides in its final determination that the amendments do involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to James R. Miller, Chief of Operating Reactors Branch No. 3, by collect call to 301–492–4559 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch. All comments received by February 14, 1985 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland, this 23rd day of January, 1985.

For the Nuclear Regulatory Commission.

E.G. Tourigny,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85–2381 Filed 1–29–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–143, License No. SNM–124, EA 84–60]

Nuclear Fuel Services, Inc.; Order Imposing Civil Monetary Penalty

I

Nuclear Fuel Services, Inc. (the "licensee"), Erwin, Tennessee, is the holder of Operating License No. SNM–124 issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the Nuclear Fuel Services, Inc., Erwin, Tennessee facility in accordance with the conditions specified therein. The license was issued on March 16, 1979.

II

A safeguards inspection of the licensee's activities was conducted from May 20–24, 1984. As a result of this inspection, it appeared that the licensee had not conducted its activities in full compliance with conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated July 27, 1984. The Notice stated the nature of the violation, the requirements of the Commission that the licensee had violated, and the amount of the civil penalty proposed for the violation in the Notice. The licensee's response to the Notice of Violation and Proposed Imposition of Civil Penalty was dated September 14, 1984.

III

Upon consideration of the Nuclear Fuel Services, Inc., response and the statements of fact explanation, and argument contained therein, the Director of the Office of Inspection and Enforcement has determined that the One Hundred Thousand Dollars ($100,000) penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be mitigated to Eighty Thousand Dollars ($80,000).

IV

In view of the foregoing, and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay the civil penalty in the amount of Eighty Thousand Dollars ($80,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thrity days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether on the basis of such violation this Order should be sustained.

Dated at Bethesda, Maryland, this 22nd day of January 1985.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 85–2382 Filed 1–29–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI–2) will be meeting on February 14, 1985, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

At this meeting the Panel will receive presentations by a member of the Nuclear Regulatory Commission's Office of Investigations and a member of the Office of Inspection and Enforcement. The Panel will also conduct an agenda planning session for the next six months. The Panel will provide an opportunity for public comment on issues related to the decontamination of TMI–2.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: January 25, 1985.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 85–2380 Filed 1–29–85; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) Collection title: Request to Non-railroad Employer for Information About Annuitant's Work and Earnings.

(2) Form(s) submitted: RL-231-F.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Businesses or other for-profit.

(6) Annual responses: 4,000.

(7) Annual reporting hours: 500.

(8) Collection description: Under the Railroad Retirement Act, benefits are not payable if an annuitant works for an employer covered under the Act or last non-railroad employer. The request will obtain from a non-railroad employer, information on an annuitant's work and earnings. The information will be used for determining whether benefits should be withheld.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85-2358 Filed 1-29-85; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-21645; File No. SR-MSE-84-13]

Self-Regulatory Organizations; Proposed Rule Change By Midwest Stock Exchange, Inc.; Relating to Proposed Schedule of Floor Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 27, 1984, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is the Proposed Schedule of Floor Fees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSE trading floor will be moving early next year into a larger and better facility. The trading floor and floor member workstations have been designed to provide the most efficient workable environment. At the same time, communications and computer equipment have been selected to insure the best and most cost effective technology will be available in the new building. The Exchange operating costs will go up as a result of the move and the new electronics.

With the move to the new location, higher fees will be charged in 1985 to cover the higher costs incurred by MSE. The increased fees will cover membership dues for both floor and non-floor memberships and a charge for electronic equipment supplied by the Exchange.

Membership dues have not been increased since January 1975. Effective January 1, 1985 floor member dues will be increased from $1,500 to $2,500 per year. (Members who do not have a presence on the floor will pay membership dues of $2,000 per year, an increase of $500.00.)

The cost of Exchange provided equipment (monitors, keyboards, and printers) will not be rebilled to the members. However, a cost to maintain this equipment will be charged. This maintenance charge will cover the cost of MSE employees as well as vendor employees and the cost of replacement parts and, in some cases, replacement units that are necessary. The time clock charge covers the cost of both the equipment and maintenance for those units.

(B) Self-Regulatory Organization's Statement of Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed fee schedule.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 5th St., NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments,

all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 20, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

January 9, 1985.

[FR Doc. 85-2209 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23580; 70-7068]

Arkansas Power & Light Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

January 24, 1985.

Arkansas Power and Light Company ("AP&L"), First Commercial Building, P.O. Box 551, Little Rock, Arkansas, 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

AP&L proposes to issue and sell, subject to Rule 50 as modified by HCAR No. 22623, not more than $200,000,000 of its First Mortgage Bonds ("Bonds"), issued in one or more series from time to time not later than February 28, 1987. The price will 5% above or below 100% of the principle amount of such series of the Bonds. Each series of Bonds will mature not earlier than five years nor later than thirty years.

AP&L intends to establish one or more new series of its Preferred Stock, Cumulative, of either $25 par value of $100 par value (collectively "Stock"). The total number of shares sold may not exceed $100,000,000 aggregate par value. This stock, subject to Rule 50 under the Act as modified by HCAR No. 22623, will be sold from time to time not later than February 28, 1987. The terms of each series will prohibit redemption for five years at a lower effective cost.

The price to be paid to AP&L for each series of Stock will not be less than $100 nor more than $102.75 per share for any series of $100 Preferred Stock and not less than $25 nor more than $25.70 for any series of $25 Preferred Stock, plus accumulated dividends. AP&L may provide for an adjustable dividend rate for one of more series of the Stock. AP&L may also include provisions for a sinking fund, with redemption of five percent annually, commencing five years or later after issuance, at par value plus dividends, the Company having a noncumulative option to redeem an additional five percent of the total number of shares annually.

AP&L proposes to use the net proceeds for partial payment of short-term indebteness, for partial financing of construction and for other corporate purposes, including all or a portion of the funds necessary to meet additional capital requirements which may result from the purchase of capacity and energy from the AP&L's affiliate, Middle South Energy, Inc.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 19, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2378 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14337; 812-5980]

Empire State Municipal Exempt Trust and the Empire Builder Tax Free Bond Fund; Application

January 23, 1985.

Notice is hereby given that Empire State Municipal Exempt Trust (previously, Municipal Exempt Trust), >c/o Glickenhaus & Co., 6 East 43rd Street, New York, New York 10017, New York Exempt Series 1 and other State, National, Similar and Subsequent Series ("Trust") and the Empire Builder Tax Free Bond Fund, c/o Moseley Capital Management Inc., 60 State Street, Boston, Massachusetts, 02109, ("Fund", collectively "Applicants") filed an application on November 9, 1984, for an order of the Commission, pursuant to section 11 of the Act, permitting eligible unit holders of the Trust to exchange certain units of the Trust acquired under a prior reinvestment program for an interest in the Fund on the basis of the relevant net asset values of the securities to be exchanged, and, pursuant to section 6(c) of the Act, granting an exemption from section 22(d) of the Act in connection therewith. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

The Trust is a unit investment trust registered under the Act. Glickenhaus & Co. ("Glickenhaus") is the sole sponsor of the first three series, and each subsequent series of the Trust has Lebenthal & Co., Inc. and Moseley, Hallgarten, Estabrook & Weeden Inc. ("Moseley") acting, together with Glickenhaus, as co-sponsors. Applicants further state that the Fund is an open-end, non-diversified investment company. Moseley Capital Management Inc. (the "Manager") is the investment manager for the Fund. The Manager is a wholly-owned subsidiary of Moseley, Hallgarten, Estabrook & Weeden Holding Corporation whose principal operating subsidiary is Moseley.

Applicants represent that holders of units ("Unitholders") in prior series of the Trust up to and including Series 60 were offered a reinvestment program which permitted Unitholders to reinvest both interest and principal distributions ("Distributions") in units of a series of the Trust created shortly before each semi-annual payment date or, if such units were not available, in fractional units of a previously formed series repurchased by the sponsors in the secondary market. Applicant further represent that the Trust's current reinvestment plan, pursuant to exemptive orders granted by the Commission, permits Unitholders of the Trust to invest Distributions received from such units in shares of the Fund at net asset value plus a sales load of 1½%. Applicants propose to allow Unitholders of series of the Trust earlier than Series 61 to exchange the units they

received under the old reinvestment plan for shares of the Fund at their respective net asset values without a sales load.

Applicants state that the purpose of the proposed exchanges is to permit Unitholders who are now invested in many series of the Trust to aggregate units acquired pursuant to the Trust's prior investment plan in one open-end entity designed to meet similar investment objectives to the Trust. Applicants believe it would be inappropriate to charge Unitholders a sales load with respect to the proposed exchanges because (i) Unitholders have already paid a sales load on the units to be exchanged, and (ii) Unitholders have already elected to participate in a reinvestment plan, no additional sales effort relating to that concept is required. Further, Applicants submit that the proposed exchanges will not dilute the assets of the Trust or the Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 15, 1985, 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.

John Wheeler,

Secretary.

[FR Doc. 85-2374 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14338; 812-6009]

Equitable Variable Life Insurance Co., et al.; Application

January 23, 1985.

Notice is hereby given that Equitable Variable Life Insurance Company ("EVLICO"), 1285 Avenue of the Americas, New York, New York 10019, Separate Account I of EVLICO ("Account I" or "Continuing Account"), and Separate Account II of EVLICO ("Account II") (collectively called "Managed Accounts" or "Accounts," prior to or following the transactions described herein, respectively), Integrity Life Insurance Company ("Integrity"), The Hudson River Fund, Inc. ("Fund"), Equitable Investment Management Corporation ("EIMC"), and The Equitable Life Assurance Society of the United States ("Equitable") (hereinafter collectively called "Applicants") filed an application on December 20, 1984 and an amendment thereto on January 22, 1985, requesting an order of the Commission pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of section 17(a) of the Act to the extent necessary to permit the issuance of shares of the corresponding portfolios of the Fund in exchange for the assets and related liabilities of the Managed Accounts and to permit the simultaneous combination of the Accounts into one Account, the Continuing Account. 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 relevant provisions.

According to the application, the Managed Accounts, which are life insurance company separate accounts registered as open-end management investment companies, currently fund variable life insurance contracts issued by EVLICO, a wholly-owned subsidiary of Equitable. Account I is a common stock account, and Account II is a money market account. Applicants state that, pursuant to a Plan of Reorganization ("Plan") and subject to approval by the Managed Accounts' contractowners, EVLICO intends to convert the Managed Accounts into a unit investment trust ("U.I.T."), each portfolio of which, following certain adjustments of policies and restrictions that, if approved by contractowners, will be made independent of the reorganization, will invest exclusively in the shares of a series of the Fund with investment objectives, policies and restrictions identical to those of the corresponding Managed Account.

Applicants further state that the conversion to U.I.T. form will involve the simultaneous combination of the Accounts into one Account, Account I, with two investment divisions.

Applicants state that the Fund is organized as a management investment company of the series type. The Fund, which will succeed to the portfolio assets and related liabilities of the Managed Accounts, will be the continuing funding vehicle for the scheduled premium variable life insurance contracts presently being offered by the Managed Accounts and which will be offered by their successor separate account, the Continuing Account. Conditioned upon obtaining further relief from the Act and rules thereunder, shares of the Fund also will be available to separate accounts of both affiliated and unaffiliated insurance companies offering other variable annuity contracts and scheduled premium and flexible premium variable life insurance contracts.

Applicants represent that the interests of existing contractowners in the divisions of the Continuing Account will be the same as their interests, respectively, in Account I and Account II immediately prior to the reorganization. Applicants further represent that EVLICO will assume all costs to be incurred in effecting the reorganization, including the expenses of organizing the Fund, and that the reorganization will not have any adverse economic impact on the contractowners' interests under the existing contracts. Applicants further represent that the reorganization will not (1) require liquidation of any assets of the Managed Accounts or the Fund, and therefore will not result in extraordinary costs such as brokerage commissions, or (2) alter the total amount of fees and charges assessed, directly or indirectly, under each existing contract, although the advisory fee, brokerage commissions and similar securities transaction expenses will be deducted from the Fund assets after the reorganization rather than from Managed Account assets, as is currently done. In addition, EVLICO believes that the transfer of assets and the combination of the Accounts will be tax-free events.

Applicants state the Integrity and EIMC, the Fund's investment advisers, will charge the two initial portfolios an investment advisory fee at an annual rate which is .15% higher that currently charged against the Managed Accounts, and the Fund will also bear certain other operating expenses not currently charged against the Managed Accounts. However, with respect to all existing contracts, EVLICO will make a daily adjustment in policy values to fully offset the effect of any and all expenses borne by the above portfolios of a type, other than any unanticipated income tax liability of the Fund, or in an amount which would not have been borne by the Managed Accounts had the reorganization not occurred.

Applicants note that each Applicant may be deemed to be an affiliated person or an affiliated person of an affiliated person of one or more of the other Applicants under section 2(a)(3) of the Act, and the reorganization may be deemed to entail one or more purchases or sales of securities or property between and among certain Applicants. Therefore, the Plan and the reorganization may require an exemption from section 17(a) of the Act, pursuant to section 17(b) of the Act. In this regard, Applicants represent that the terms of the proposed transactions, as fully described in the application and the Plan are reasonable and fair, including the consideration to be paid and received; do not involve overreaching; are consistent with the investment policies of each Managed Account; and are consistent with the general purposes of the Act. Applicants assert that the proposed transactions do not present any of the issues or abuses that the Act is designed to prevent. Applicants further assert that the proposed transactions will be effected in a manner consistent with the public interest and the protection of investors.

Applicants represent, for the reasons fully discussed in the application, that the terms of the proposed Plan and the related transactions meet all of the requirements of section 17(b) of the Act and that an order should be granted exempting the proposed transactions from the provisions of section 17(a) of the Act, to the extent requested.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1985, 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 Applicants 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.

John Wheeler,

Secretary.

[FR Doc. 85-2373 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23581; 70-7072]

Northeast Utilities; Proposal To Issue and Sell Common Stock

January 24, 1985.

Northeast Utilities, ("Northeast") 174 Brush Hill Avenue, West Springfield, Massachusetts, 01089:, a registered holding company, has filed an application-declaration pursuant to Sections 6, 7 and 9(c) of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 40 thereunder.

On December 10, 1981 (HCAR No. 22313) this Commission authorized Northeast to issue and sell 18 million shares of its authorized but unissued common stock pursuant to its existing Dividend Reinvestment and Common Share Purchase Plan ("the plan"). As of December 20, 1984, Northeast had issued and sold 16,656,923 of the 18 million authorized shares. Northeast now proposes to issue and sell from time to time until December 31, 1988, the remaining 1,343,077 shares from the 18 million shares previously authorized ("Remaining Common Shares") plus a maximum of 3,500,000 additional authorized but unssued shares ("Additional Common Shares") (the Additional Common Shares and Remaining Common shares collectively referred to as "the Shares"). The plan provides that the purchase price of the Shares shall be the fair market value of Northeast's common shares on the Investment Date.

The proceeds (estimated at approximately $50,750,000 assuming all the Additional Common Shares are sold at a price of $14.50 per share) will be added to the general funds of Northeast and will be used for any or all of the following purposes: (a) Loans or capital contributions to Northeast's subsidiaries, (b) repayment of short-term or long-term indebtedness of Northeast, (c) general purposes of Northeast, or (d) temporary investments in short-term high quality securities prusuant to section 9(c) of the Act pending the use by Northeast for the purposes set forth in (a) (b) or (c).

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 19, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2376 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13380]

Application and Opportunity for Hearing; General Mills, Inc.

January 24, 1985.

Notice is hereby given that General Mills, Inc., a Delaware corporation (the "Company"), has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of Citibank, N.A. ("Citibank") under the indenture of the Company dated as of March 1, 1979 (the "1979 Indenture"), and the trusteeship of Citibank under the indenture of the Company dated October 15, 1970 (the "1970 Indenture") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the 1970 Indenture or as successor trustee under the 1979 Indenture. The 1970 Indenture and the 1979 Indenture were heretofore qualified under the Act.

Section 310(b) of the Act provides in par that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is

not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application of the Company alleges that:

1. The Company has outstanding, as of October 15, 1984, $44.7 million aggregate principal amount of its 8-⅞% Sinking Fund Debentures due October 15, 1995 (the "8-⅞% Debentures") issued under the 1970 Indenture between the Company and Citibank. The 8-⅞% Debentures were registered under the Securities Act of 1933, as amended (the "Securities Act") (File No. 2–38523), and the 1970 Indenture was qualified under the Act (File No. 22–6307).

2. The Company has outstanding, as of October 15, 1984, $113.3 million aggregate principal amount of its 9-⅜% Sinking Fund Debentures due March 1, 2009 (the "9-⅜% Debentures") issued under the 1979 Indenture between the Company and Morgan Guaranty Trust Company of New York ("Morgan Guaranty"). The 9-⅜% Debentures were registered under the Securities Act (File No. 2–63732), and the 1979 Indenture was qualified under the Act (File No. 22–9873).

3. Morgan Guaranty, on October 4, 1984, gave written notice to the Company of its intention to resign as trustee under the 1979 Indenture. The Company has requested Citibank to accept appointment as successor trustee under the 1979 Indenture.

4. Section 7.08 of the 1970 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified Section 7.10 * * *.

(c) For the purpose of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities * * * of the Company are outstanding * * * provided that there shall be excluded from the operation of this paragraph in Indenture dated as of August 1, 1965 under which the Company's 4-¾% Sinking Fund Debentures due August 1, 1990 are outstanding, and any other indenture or indentures under which other securities * * * of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary to disqualify the Trustee from acting as such under such indentures.

Citibank has resigned as trustee under the Company's Indenture dated as of August 1, 1965.

5. Section 7.08 of the 1979 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10 * * *.

(c) For the purposes of this Sectin 7.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under anoter indenture under which any securities * * * of the Company are outstanding * * * provided that there shall be excluded from the operation of tis paragraph any indenture or indentures under which other securities * * * of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indentures or indentures are hereafter qualified under the Trust Indenture of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that Trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

6. The Company has placed certain U.S. government obligations and 8-⅞% Debentures in trust under an Escrow Trust Agreement dated as of November 23, 1983 with Continental Illinois National Bank and Trust Company of Illinois to secure payment of the principal and interest on the 8-⅞% Debentures issued under the 1970 Indenture. The Company has not placed any U.S. government obligations or other securities in trust to secure payment of the principal and interest on the 9-⅜% Debentures issued under the 1979 Indenture.

7. Acceptance by Citibank of the appointment as successor trustee under the 1979 Indenture may involve Citibank in a conflict of interest within the meaning of Section 7.08 of the 1970 Indenture with respect to the 1979 Indenture.

8. Acceptance by Citibank of the appointment as successor trustee under the 1979 Indenture may involve Citibank in a conflict of interest within the meaning of Section 7.08 of the 1979 Indenture with respect to the 1970 Indenture.

9. Since payment of principal and interest on the 8-⅞% Debentures issued under the 1970 Indenture are secured by a separate group of specific obligations owned by a separate trust established exclusively for the benefit of the holders of the 8-⅞% Debentures issued under the 1970 Indenture, should Citibank have occasion to proceed against the security held in this trust, such action would not affect the 9-⅜% Debentures issued under the 1979 Indenture. The only other material differences between the provisions of the 1970 Indenture and the 1979 Indenture, and between the rights of holders of the 8-⅞% Debentures and the holders of the 9-⅜% Debentures, relate to the aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption and sinking fund provisions, Trustee's reports, restrictions on transferability and other provisions of a similar nature. Any such differences and any other provisions of the 1970 Indenture and the 1979 Indenture are unlikely to cause any conflict of interest between the respective trusteeships of Citibank under said Indentures.

10. The Company is not in default under the 1970 Indenture or the 1979 Indenture.

11. The Company has waived (a) notice of hearing, (b) hearing on the issues by its application and (c) all rights to specify procedures under the Commission's Rules of Practice with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the

Commission at 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after February 19, 1985, unless prior thereto a hearing is upon the application is ordered by the Commission, as provided in cluase (ii) of section 310(b)(1) of the Act. Any interested person may, not later than February 19, 1985 at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler, III,

Secretary.

[FR Doc. 85-2379 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21684; SR-PSE-84-24]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 25, 1985.

Pursuant to section 10(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1984, the Pacific Stock Exchange, Inc. ("PSE") 618 South Spring Street, Los Angeles, CA, 90014, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change extends the PSE's pilot program for the appointment and evaluation of specialists and the creation of new specialist posts ("pilot program") from December 31, 1984 to March 31, 1985. The PSE proposes to amend sections 11(1) and 11(t) of Rule II of the Rules of the Board of Governors of the PSE to reflect the pilot program's new scheduled expiration date of March 31, 1984.[1] The Exchange has noted in its filing that it is requesting the three month extension in order to allow the Exchange an opportunity to file an application with the Commission for modifications of the pilot program as well as to provide it with adequate time to evaluate and incorporate forthcoming recommendations that will be submitted by the Joint Equity Allocation Committee and the Board of Governors Special Committee on Specialists. The PSE states that the proposed rule change is consistent with section 6(b) of the Act in general, and, in particular, sections 6(b)(5) and 6(b)(7).

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-PSE-84-24.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the PSE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the pilot program was scheduled to terminate on December 31, 1984, unless extended. The Commission believes the extension of the pilot program until March 31, 1985 is appropriate in that it will permit the PSE to more thoroughly review its experience under the pilot program and to develop any necessary modifications to the program prior to requesting permanent Commission approval.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, granted.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2377 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved the adoption of the pilot program (SR-PSE-81-15) on May 27, 1981 (Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30018, June 4, 1981). The term of the program was subsequently extended several times by the Commission. The Commission most recently approved an extension of the pilot program until December 31, 1984 in SR-PSE-84-10 (Securities Exchange Act Release No. 21076, June 21, 1984; 49 FR 26331, June 27, 1984).

[Release No. 21686; SR-OCC-84-19]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of the Options Clearing Corporation

January 24, 1985.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1985, the Options Clearing Commission ("OCC") filed with the Securities and Exchange Corporation the rule change described below. The Commission is publishing this notice to solicit comments on the rule change.

The proposed rule change would implement a final agreement to replace the Pilot Agreement for OCC's On-Line Program.[1] The On-Line Service Supplement to the Agreement for OCC Services is substantially identical to the Pilot Agreement with two exceptions. First, the supplement includes a fee schedule for clearing members use of OCC's on-line communications system.[2] Second, the Supplement provides that a clearing member may, with OCC's prior approval, use any means of access to the On-Line system.[3]

[1] *See* Securities Exchange Act Release No. 20983 (May 22, 1984), 49 FR 22427 (May 29, 1984), which approved implementation of OCC's On-Line Program and the Pilot Agreement.

[2] Notice of immediate effectiveness of the fee schedule was published in Securities Exchange Act Release No. 21015 (June 1, 1984), 49 FR 23971 (June 8, 1984).

[3] OCC currently provides access to the program solely through dedicated lines. OCC has represented that OCC will file a proposed rule change with the Commission under Section 19(b) of the Act if OCC decides to provide other access methods, e.g., by dial-up.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the act and subparagraph (e) of Securities Exchange Act Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after notice is published in the Federal Register. That notice is expected to be published during the week of January 21, 1985. Please refer to File No. SR-OCC-84-19, and file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available at the Commission's Public Reference Room and at the principal office of OCC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-2375 Filed 1-29-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 22]

Delegation of Authority to the Associate Deputy Administer for Management and Administration

Due to organizational changes within the Small Business Administration Delegations of Authority No. 10-A, (46 Fr 34447) to the Associate Deputy Administrator and 3A, (46 FR 26418) to the Associate Deputy Administrator for Support Services are cancelled; administrative authority in Delegation of Authority No. 15, Revision 2, (37 FR 20753) as amended (39 FR 1897; 40 FR 18054; 42 FR 18320; 43 FR 17434; 46 FR 26417; and 47 FR 5392) to the Assistant Administrator for Administration and financial management authority in Delegation of Authority No. 21 (48 FR 51560) to the Comptroller are revoked and authority therein is transferred to the Associate Deputy Administrator for Management and Administration. Accordingly, Delegation of Authority No. 22 reads as follows:

(a) Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Associate Deputy Administrator for Management and Administration authority to take all necessary actions to carry out the assigned functions of the Management and Administration Programs, including Administration (administrative supervision only, to except Paperwork Reduction Act authority delegated to the Assistant Administrator for Administration by the Administrator); Personnel; Program Analysis and Review; Public Communications; Comptroller; and Equal Employment Opportunity and Compliance (administrative supervision only, to except Equal Employment Opportunity Commission authority delegated to the Director, Equal Employment Opportunity and Compliance by the Administrator.)

(1) Administrative Services

(i) To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., subject to limitations contained in section 257 (a) and (b) of that chapter.

(ii) To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in section 257 (a) and (b) of the Chapter and pursuant to Title 44, U.S.C.

(iii) To execute grants or cooperative agreements authorized by Federal Statute except section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95-224, OMB Circular A-110 and OMB Circular A-102.

(2) Claims Under the Federal Tort Claims Act

To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

(3) Use of Seal of the Small Business Administration

To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the non-existence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

(4) Financial Management

To assign, endorse, transfer, deliver or release (but in all cases without representation, recourse or warrantly) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

(b) This delegation is not in derogation of any authority residing in the Deputy Administrator.

(c) The authority herein may be redelegated with the exception of (a)(2) which is redelegated only to the Assistant Administrator for Administration.

(d) All authority delegated herein may be exercised by any SBA employee designated as Acting Associate Deputy Administrator for Management and Administration.

Dated: January 24, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-2364 Filed 1-29-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5343]

New Kukje Investment Company; Issuance of a Small Business Investment Company License

On August 2, 1984, a notice was published in the Federal Register (49 FR 31027) stating that an application has been filed by New Kukje Investment Company, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license as a small business investment company.

Interested parties were given until close of business September 1, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-5343 on January 10, 1985, to New Kukje Investment Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 23, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-2365 Filed 1-29-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public convenience and Necessity and foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended January 11, 1985

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period D.O.T. may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701, et seq.).

Date filed	Docket No.	Description
Jan. 7, 1985	42731	Trail Lake Flying Service, Inc. d/b/a Harbor Air Service, c/o James W. Foster, White, Foster, Eastep and Associates, 3605 Artic Blvd., Suite 454, Anchorage, Alaska 99503. Application of Trail Lake Flying Service, Inc. d/b/a/ Harbor Air Service pursuant to Section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity to engage in scheduled interstate air transportation of persons, property and mail, including all-cargo service. (Points in Alaska). Conforming Applications, Motions to Modify Scope and Answers may be filed by Februery 4, 1985.
Do.	42732	Europacific Airlines, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, Suite 300, 1211 Connecticut Avenue, NW., Washington, D.C. 22101. Application of Europacific Airlines, Inc. pursuant to Section 401 of the Act and subpart Q of the Regulations requests a certificate of pubic convenience and necessity to engage in interstate and overseas charter air transportation (including inclusive tour charters) of persons, property and mail: 1. Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 4, 1985.
Do.	42733	Europacific Airlines, Inc., c/o Lawrence D. Wasko, Seamon, Wasko & Ozment, Suite 300, 1211 Connecticut Avenue, NW., Washington, D.C. 22101. Application of Europacific Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity to engage in foreign charter air transportation (including inclusive tour charters) of: 1. Persons, property and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and a. Any point in Canada; b. Any point in Mexico; c. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad and Tobego, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea; d. Any point in Central or South America; e. Any point in Australesia, Indonesia or Asia as far west as Longitude 70 degrees east via a transpacific routing; and f. any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 4, 1985.
Do.	42734	Arrow Air, Inc., c/o Lawrence D. Wasko, Seamon , Wasko & Ozment, 1211 Connecticut Avenue, NW., Suite 300, Washington, D.C. 20036. Conforming Application of Arrow Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the regulations to engage in scheduled foreign air transportation of persons, property and mail between the terminal point Miami, Florida and the coterminal points Rio de Janeiro and Sao Paulo, Brazil. Answers may be filed by January 21, 1985.
Do.	42735	Pacific Western Airlines, Ltd., c/o David B. Ortman, 61 G Street, SW., Washington, D.C. 20024. Application of Pacific Western Airlines, Ltd . pursuant to Section 402 of the Act and Subpart Q of the Regulations requests renewal of the permit issued by Order 80-1-68, October 17, 1979 and approved by the President on January 14, 1980. This permit authorizes charter air transportation only. Answers may be filed by February 4, 1985.
Do.	42736	American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth Street, NW., Washington, D.C. 20036. Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to serve between the United States and France. Conforming applications, Motions to Modify Scope and Answers may be filed by February 4, 1985.
Do.	42737	American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth street, NW., Washington, D.C. 20036. Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations request DOT to issue it a certificate of public convenience and necessity through expedited procedures to engage in foreign air transportation of persons, property, and mail between Dallas/Ft. Worth, Texas, and Tokyo, Japan. Conforming Applications, Motions to Modify Scope and answers may be filed by February 4, 1985.
Do.	42738	American Airlines, Inc., c/o Alfred V. J. Prather, Prather Seeger Doolittle & Farmer, 1101 Sixteenth street, NW., Washington, D.C. 20036. Application of American Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations request DOT to issue it a certificate of public convenience and necessity through expedited procedures to engage in foreign air transportation of persons, property, and mail between Chicago, Illinois, and London, England. Conforming applications, Motions to Modify Scope and answers may be filed by February 4, 1985.
Jan. 9, 1985	42748	Bay Air, Inc., c/o Monte Handy, P.O. Box 204, Naknek, Alaska 99633. Application of Bay Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point King Salmon, Alaska and the terminal point Egegik, Alaska. Conforming applications, Motions to Modify Scope and answers may be filed by February 6, 1985.
Do.	42750	Compania Dominicana De Aviacion, C. POR A., c/o Celestino Pena, 151-67 22nd Ave., Whitestone, New York 11357. Application of Compania Dominicana De Aviacion, C. POR A. pursuant to Section 402 of the Act and Subpart Q of the Regulations requests amendment of its Foreign Air Carrier permit to serve the Dominican Republic-United States and beyond to Canada or Mexico. Answers may be filed by February 6, 1985.
Do.	42751	Compania Dominicana De Aviacion, C. POR A., c/o Celestino Pena, 151-67 22nd Ave., Whitestone, New York 11357. Application of Compania Dominicana De Aviacion, D. POR A. requests amendment of its Foreign Air carrier permit, pursuant to Section 402 of the Act and Subpart Q of the Regulations, for Dominican Republic-Puerto Rico Scheduled Service. Answers may be filed by February 6, 1985.
Do.	42752	Compania Dominicana De Aviacion, C. POR A., c/o Celestino Pena, 151-67 22nd Ave., Whitestone, New York 11357. Application of Compania Dominicana De Aviacion, D. POR A. pursuant to Section 402 of the Act and Subpart Q of the Regulations requests amendment of its Foreign Air Carrier permit for Dominican Republic—United States Scheduled Service. Answers may be filed by February 6, 1985.

Phyllis T. Kaylor,
Chief, Documentary services.
[FR Doc. 85-2319 Filed 1-29-85; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits filed under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended December 28, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period D.O.T. may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See, 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Dec. 28, 1984	42727	Compania Panamena De Aviacion S.A., c/o Michael D. Butterman, Cameron, Hornbostel, Adelman & Butterman, 230 Park Avenue, New York, New York 10169. Application of Compania Panamena De Aviacion S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations requests a foreign air carrier permit to authorize it to engage in foreign air transportation of persons, property and mail in scheduled and nonscheduled service between Panama City, Panama and Miami, Florida, and to operate charters in accordance with Part 212 of the Economic Regulations. Answers may be filed by January 25, 1985.

Phyllis T. Kaylor,
Chief, Documentary Services.
[FR Doc. 85-2320 Filed 1-29-85; 8:45 am]
BILLING CODE 4910-62-M

Office of the Secretary

Application of TPI International Airways, Inc.; for Certificate Authority Under Subpart Q

AGENCY: Office of the Secretary, DST.[1]
ACTION: Notice of Order to Show Cause, (Order 84-12-131, dated December 31, 1984 and served January 18, 1985), Dockets 42324 and 42355.

SUMMARY: The Board adopted the subject order directing all interested persons to show cause why it should not issue an order granting TPI International Airways, Inc. a certificate of public convenience and necessity to engage in foreign air transportation and for a certificate to engage in all-cargo air service.

DATES: Objections should be filed in Dockets 42324 and 42325 and should be addressed to the Docket Section, Documentary Services Division, 400 Seventh Street, SW., Department of Transportation, Washington, D.C. 20590 by February 4, 1985.

ADDRESSES: Responses should be filed in Dockets 42324 and 42325 and addressed to the Docket Section, Documentary Services Division, Washington, D.C. 20590, and should be served upon parties listed in the Attachment to the order.

FOR FURTHER INFORMATION CONTACT: Thomas F. Mahoney, Aviation Enforcement and Proceedings, Office of The General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-7631.

Dated: January 25, 1985.

Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.
[FR Doc. 85-2398 Filed 1-29-85; 8:45 am]
BILLING CODE 4910-62-M

[1] The functions of the Civil Aeronautics Board were assumed by the Department of Transportation on January 1, 1985.

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center; National Center for State and Local Law Enforcement Training; Advisory Committee Meeting

AGENCY: Advisory Committee to the National Center for State and Local Law Enforcement Training.
ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes opening remarks by the Director of the Federal Law Enforcement Training Center and Committee Co-Chairs; comments from past Co-Chairmen; general administrative matters; summary of present and past training activities; old business; program development in progress; and new concepts for consideration.

DATE: February 20-21, 1985.

ADDRESS: Building 262, Room S-5, Federal Law Enforcement Training Center, Glynoc, Georgia 31524.

FOR FURTHER INFORMATION CONTACT: R.J. Miller, Assistant Director, Office of State and Local Training, Federal Law Enforcement Training Center, Glynco, GA 31524 (912-267-2345).

Signed: January 22, 1985.

Charles F. Rinkevich,
Director.
[FR Doc. 85-1946 Filed 1-29-85; 8:45 am]
BILLING CODE 4810-32-M

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 1-85]

Treasury Notes; Series R-1987

January 24, 1985.

The Secretary announced on January 23, 1985, that the interest rate on the notes designated Series R-1987, described in Department Circular—Public Debt Series No. 1-85, dated January 17, 1985 (50 FR 3448), will be 9¾ percent. Interest on the notes will be payable at the rate of 9¾ percent per annum.

Carole Jones Dineen,
Fiscal Assistant Secretary.
[FR Doc. 85-2293 Filed 1-29-85; 8:45 am]
BILLING CODE 4810-40-M

Customs Service

Application for Recordation of Trade Name; Neenah Foundry Co.

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "NEENAH FOUNDRY CO." used by Neenah Foundry Company, a corporation organized under the laws of the State of Wisconsin, located at 2121 Brooks Avenue (P.O. Box 729), Neenah, Wisconsin 54956.

The application states that the trade name is used in connection with construction castings manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before April 1, 1985.

ADDRESS: Written comments should be addressed to the Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: January 25, 1985.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 85–2325 Filed 1–29–85; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 20
Wednesday, January 30, 1985

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

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:40 p.m. on Friday, January 25, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Steele State Bank, Cherokee, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Friday, January 25, 1985; (2) accept the bid for the transaction submitted by Valley Bank & Trust, Cherokee, Iowa, a newly-chartered State nonmember bank; (3) approve the applications jof Valley Bank & Trust, Cherokee, Iowa, for Federal deposit insurance, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Steele State Bank, Cherokee, Iowa, and to establish the sole branch of The Steele State Bank as a branch of Valley Bank & Trust; and (4) provide such financial assistance,pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–2521 Filed 1–28–85; 3:00 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:37 p.m. on Thursday, January 24, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank in Marlow, Marlow, Oklahoma, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, January 24, 1985; (2) accept the bid for the transaction submitted by The First National Bank in Marlow, Marlow, Oklahoma, a newly-chartered national bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction; and

(B) Discuss the bids that had been submitted for the purchase of certain assets of and the assumption of the liability to pay deposits made in First National Bank in Clarksville, Clarksville, Texas, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, January 24, 1985.

The meeting was recessed at 4:45 p.m., and at 8:33 p.m., that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors:

(1) Accepted the bid of Citizens Bank, Clarksville, Texas, a newly-chartered State nonmember bank subsidiary of Citizens Bancshares, Inc., Clarksville, Texas, for the purchase of certain assets of and assumption of the liability to pay deposits made in First National Bank in Clarksville, Clarksville, Texas, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, January 24, 1985; (2) approved the applications of Citizens Bank, Clarksville, Texas, for Federal deposit insurance and for consent to purchase certain assets of and to assume the liability to pay deposits made in First National Bank in Clarksville, Clarksville, Texas; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 25, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–2522 Filed 1–28–85; 3:00 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that are 2:30 p.m. on Monday, February 4, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuants 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 affair 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:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of 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, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-2523 Filed 1-28-85; 3:00 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 4, 1985, 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.

Application for consent to purchase assets and assume liabilities and establish three branches:

Mid-State Bank, Arroyo Grande, California, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Cayucos Branch, Cayucos, California, Morro Bay Branch, Morro Bay, California, and Los Osos Branch, Los Osos, California, of Wells Fargo Bank, National Association, San Francisco, California, and for consent to establish those three branches as branches of Mid-State Bank.

Application for consent to relocate the main office:

First Trust and Savings Bank, Davenport, Iowa, for consent to relocate its main office from 302 Brady Street to 201 W. Second Street, within Davenport, Iowa.

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.

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: January 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-2524 Filed 1-28-85; 3:00 pm]

BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 24, 1984 (50 FR 3451).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., January 30, 1985.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

5. Petition of Concorde/Nopal Line for Issuance of Regulations to Adjust and Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 85-2514 Filed 1-28-85; 2:19 pm]

BILLING CODE 6730-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 25, 1985.

TIME AND DATE: 10:00 a.m., Friday, February 1, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(b)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. United Mine Workers of America on behalf of Rowe, et al. and Secretary of Labor on behalf of Williams v. Peabody Coal Company, Docket Nos. KENT 82-103-D, 82-105-D, 82-106-D, and LAKE 83-69-D. (Issues included whether the administrative law judge engaged in misconduct.)

2. Belcher Mine, Inc., Docket No. SE 84-8-M. (Issues include whether the administrative law judge engaged in misconduct.)

It was determined by a unanimous vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 85-2472 Filed 1-28-85; 11:36 am]

BILLING CODE 6735-01-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-08]

TIME AND DATE: 4:00 p.m., Tuesday, February 5, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints.

5. Investigation 701–TA–236, 237 [Preliminary] (Castor oil from Brazil)—briefing and vote.

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[FR Doc. 85–2399 Filed 1–25–85; 4:39 pm]

BILLING CODE 7020–02–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

Addition of Agenda Item

DATE: January 9, 1985.

PLACE: Hearing Room, Council Central Office, Suite 1100, 850 S.W. Broadway, Portland, Oregon.

SUMMARY: The Government in the Sunshine Act, 5 U.S.C. 552b, requires **Federal Register** notice whenever an agency adds an item to its meeting agenda after the meeting had been publicly announced. At its January 9, 1985 meeting in Portland, Oregon, the Council voted to add to its agenda a staff briefing regarding a proposal by the Office of Management and Budget for repayment of Bonneville Power Administration's debt to the U.S. Treasury. The Council determined by recorded vote that Council business required the addition to the agenda and that no earlier notice of the addition was practicable because Council involvement in this issue arose just prior to the meeting. The addition to the agenda was publicly announced at the beginning of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–2520 Filed 1–28–85; 2:58 pm]

BILLING CODE 0000–00–M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisons of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of Febuary 4, 1985. Also, an open meeting will be held on February 13, 1985, at 450 Fifth Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, February 5, 1985, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, Feburary 5, 1985, will be:

Formal order of investigation.

Settlement of administrative proceeding of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive action.

Opinion.

The subject matter of the open meeting scheduled for Wednesday, February 3, 1985, at 2:30 p.m., will be:

Consideration of two proposed rule changes submitted by the New York Stock Exchange, Inc. ("NYSE"). The first proposal authorizes the NYSE to establish a market for trading standardized options on individual listed stocks (File No. SR–NYSE–84–3). The second proposal authorized the NYSE to adopt a revised version of the Allocation Plan (*i.e.*, the lottery system used by the existing options exchanges to allocate underlying equities for options trading), which would accommodate NYSE participation (File No. SR–NYSE–84–10).

In addition, the Commission will consider whether to publish an excerpt from the Minutes of the Commission's February 7, 1979 closed meeting. For further information, please contact Heidi Steinberg Coppola at (202) 272–2415.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bill Fowler at (202) 272–3077.

Dated: January 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–2553 Filed 1–28–85 4:04 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
Januarv 30, 1985

Part II

General Services Administration

41 CFR Ch. 201

Federal Information Resources Management Regulation, Final Rule and Temporary Regulations (Amendment 1 and Temporary Regulations 1, Supplement 1; 2, Supplement 1; and 4 Through 9)

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

[FIRMR Amdt. 1]

Establishing Integrated Provisions for the Federal Information Resources Management Regulation (FIRMR)

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule.

SUMMARY: This regulation establishes integrated provisions for use by Federal or executive agencies (as applicable) governing their information activities regarding the management, acquisition, and use of certain automatic data processing and telecommunication resources. The regulation is necessary to combine regulations originally promulgated as Federal Procurement Regulations (FPR) or Federal Property Management Regulations (FPMR) provisions, and subsequently designated FIRMR provisions with the establishment of the FIRMR effective April 1, 1984 (49 FR 20994, May 17, 1984). The intended effect is to provide a single, logically organized, understandable directive that ensures that information resources are managed, acquired, and used by the Federal Government in a manner which improves services delivery and program management, increases productivity, reduces waste and fraud, and minimizes paperwork burdens. The regulation contains no changes in authorities, policies, or procedures.

EFFECTIVE DATE: This regulation is effective April 1, 1985, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch (KMPP), telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) This Amendment 1 to the FIRMR consists of: (i) the Federal Register preamble (of which this **SUPPLEMENTARY INFORMATION** is a part), (ii) derivation tables for codified parts of Ch. 201 listing FPR/FPMR sources for FIRMR sections, (iii) a distribution table for Chapter 201 listing FIRMR sections for FPR/FPMR sources, (iv) an Executive Summary, (v) the Chapter 201 Table of Parts, (vi) republication of Part 201-1 with minor changes, (vii) the addition of new Chapter 201 parts containing integrated provisions, and (viii) the removal of former FPR/FPMR provisions from Parts 201-4, 201-35, 201-36, and 201-37.

(2) The Chapter 201 parts established by this Amendment 1 contain no changes in authorities, policies, or procedures. Notices of proposed rulemaking have been published in the Federal Register (49 FR 34534, August 31, 1984; 49 FR 35385, September 7, 1984; 49 FR 36665, September 19, 1984; and 49 FR 38151, September 27, 1984) indicating the availability of drafts of these parts for review and comments by interested parties. All comments received have been considered. Because this regulation is serving the sole purpose of integrating existing codified provisions, action on all suggested changes in policies or procedures are being deferred for future action. In this regard, the telecommunication procurement policy of competitive acquisition to obtain the least overall cost solution considering all alternatives related to cost effective long distance telecommunication services was recently clarified in Supplement 4 to FIRMR Temp. Reg. 51 and is reiterated in FIRMR Temp. Reg. 4, effective concurrent with this Amendment 1. Because this Amendment 1 only deals with existing GSA codified authorities, policies, and procedures, this issuance does not contain any related policy changes in other portions of the FIRMR. Other regulatory development actions addressing these changes have been initiated.

(3) By separate actions with concurrent effective dates, the provisions in existing FIRMR designated temporary regulations are being reissued to provide references consistent with the codified provisions of the FIRMR. Contrary to the intent expressed in paragraph 8 of supplemental information published when the FIRMR was established, existing FIRMR designated temporary regulations have not been integrated into the codified text in this Amendment 1. This ensures no changes in authorities, policies, or procedures in the initial publication of integrated codified text. FIRMR temporary regulations will be codified (as applicable) by subsequent FIRMR amendment actions. FIRMR Temp. Regs. 1 and 2 are being supplemented for the same purposes. Amendment 1 does not include text superseded by temporary regulations. However, the amendment does make reference to appropriate temporary provisions.

(4) Part 201-1 is reprinted so that Amendment 1 will include the complete codified text of the FIRMR. Part 201-1 is revised to (i) amend § 201-1.101-1 to revise paragraph (e) to recognize that interim provisions expire with the effective date of this Amendment 1, (ii) revise § 201-1.102-1 to correct the caption and add a reference to Part 201-23 (added by this Amendment 1), (iii) amend § 201-1.102-2 to recognize the issuance of E.O. 12472, (iv) amend § 201-1.103 to correct an oversight in stating successor agencies to the Atomic Energy Commission, and (v) revise § 201-1.402 to correct an oversight by adding the provisions appearing in FPR § 1-4.1100-3(b). All other provisions of Part 201-1 remain as originally published.

(5) The FIRMR (41 CFR Ch. 201) is the Government-wide regulation containing policies, procedures, and guidelines that was identified as being at Title 41 CFR Chapter 150 in the initial issuance of the Federal Acquisition Regulation (FAR) at Part 39—Management, Acquisition, and Use of Information Resources (48 FR 42370, September 19, 1983). FIRMR § 201-1.101-1, Relationship to other Government-wide regulations and Subpart 201-1.6—Contracting Rules (see 49 FR 20997 and 21001, May 17, 1984) contain provisions regarding the relationship between the FAR and the FIRMR.

(6) Initial distribution of this Amendment 1 will be made by GSA by FIRMR bulletin transmission of the Federal Register reprint to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. This bulletin will replace FIRMR Bulletin 1 dated April 1, 1984. It is suggested that the reprint be retained for continuing use until the FIRMR looseleaf edition has been published and distributed (see following paragraph 7). Single copies of the reprint will be made available upon written request to GSA (KMPP), Washington, DC 20405.

(7) The FIRMR will be available in a looseleaf edition, in addition to Federal Register promulgation of amendments and temporary regulations and an annual update in the Code of Federal Regulations (41 CFR Ch. 201) as of July 1. Notice of procedure for Federal agencies/departments to order the FIRMR looseleaf edition (49 FR 45748, November 20, 1984), preliminary notice 49 FR 27509, July 5, 1984) requires that Federal government users make their need for copies known to their individual agency Government Printing Office Liaison Official. Each GPO Liaison Official consolidates the agency requirements and submits them by SF-1 rider requisition to the GPO. Individual subscriptions to the FIRMR can be ordered from the GPO (see 49 FR 49936, December 24, 1984). Questions regarding ordering the looseleaf edition can be directed to Ms. Carolyn Thomas, Policy Branch (KMPP), OIRM, GSA, telephone (202) 566-0194 or FTS, 566-0194.

(8) The initial distribution of the looseleaf edition of the FIRMR will include the initial promulgation of Part 201-1 (as corrected by this Amendment 1), the integrated text added by this Amendment 1, the temporary regulations being published concurrently with Amendment 1 (see above paragraph 3) as Appendix A, and all FIRMR bulletins published to date as Appendix B, together with a three-ring binder (with initial distribution only) for convenient updating as subsequent issuances are distributed.

(9) The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

(10) Derivation Tables for Individual Parts.

ATTACHMENT A—DERIVATION TABLE FOR DEFINITIONS IN PART 201-2

FIRMR words and terms in § 201-2.001	FPR/FPMR sources
ADP equipment system	See FPMR Temp. Reg. F-500
ADP fund	101-36.301-13
ADP resource	101-36.201; FPMR Temp. Reg. F-499
ADP resource system	101-36.201; FPMR Temp. Reg. F-499
ADP services	1-4.1202-1
ADP sharing	101-35.202-6; FPMR Temp. Reg. F-499 101-36.201; FPMR Temp. Reg. F-499
ADP simulation	101-36.1401
ADP support services	1-4.1202-2
ADP system security	101-35.202-7; FPMR Temp. Reg. F-499 101-35.302
ADP unit	101-36.201; FPMR Temp. Reg. F-499
Agency, as used in Subpart 201-6.1	101-35.1702
Agency controls, as used in Part 201-7.	101-35.302
Agency procurement request (APR)	1-4.1102-14
Analog computer	See FPMR Temp. Reg. F-500
Automatic data processing equipment (ADPE).	1-4.1102-1; FPR Temp. Reg. 71 101-35.202-1; FPMR Temp. Reg. F-500 101-36.301-1
Automatic release data (ARD)	101-36.301-8
Availability list	101-36.301-9
Cannibalization	101-36.301-16
Collocation	101-36.902-1
Commercial ADP services	1-4.1202-3 101-35.202-8; FPMR Temp. Reg. F-499
Commercial ADP services and support services subject to the Privacy Act.	1-4.1202-4
Commercial ADP support services	1-4.1202-3

ATTACHMENT A—DERIVATION TABLE FOR DEFINITIONS IN PART 201-2—Continued

FIRMR words and terms in § 201-2.001	FPR/FPMR sources
	101-35.202-8; FPMR Temp. Reg. F-499
Comparative cost analysis for purposes of telecommunication acquisitions.	1-4.1301-5; FPR Temp. Reg. 51, Supp. 2
Competitive requirement	1-4.1102-7
Compiler	101-36.1303-6
Computer performance evaluation	101-36.1401
Condition codes	101-36.301-1
Consensual, as used in Subpart 201-6.2.	101-37.311-1
Consolidation	101-36.902-2
Data, facsimile, and record telecommunication services.	101-37.201-5
Data processing facility	101-36.201; FPMR Temp. Reg. F-499 101-36.701 101-36.902-4
Data processing facility environment	101-36.701
Data processing facility security	101-36.701
Data processing facility subject to OMB Circular A-121.	101-36.201; FPMR Temp. Reg. F-499
Dedicated teleprocessing system	1-4.1202-7
Determination, as used in Subpart 201-6.2.	101-37.311-1
Digital computer	See FPMR Temp. Reg. F-500
Electronic features	101-37.308
Electronic switching system (ESS)	101-37.308
Emergency traffic	101-37.702
Equipment performance specification for an ADP system.	1-4.1102-13
Essential traffic	101-37.702
Evaluated optional features	1-4.1102-16
Excess	101-36.301-4
Exchange/sale ADPE	101-36.301-6
Federal agency	1-4.1102-18 101-35.202-9 101-36.201
Federal agency for purposes of Part 201-33.	101-36.301-2
Federal Data Processing Center (FDPC).	101-36.801-1
Firmware	1-4.1102-3 101-35.202-3
Full cost for purposes of OMB Circular A-121.	101-36.201; FPMR Temp. Reg. F-499
Functional specification	1-4.1102-12
Functional telecommunication system specification.	1-4.1301-1; FPR Temp. Reg. 51
General management computer for purposes of OMB Circular A-121.	101-36.201; FPMR Temp. Reg. F-499
Government contractor, as used in Subpart 201-6.1.	101-35.1702
Grants	101-36.301-19
Hold	101-36.301-11
Holding agency	101-36.301-3
Hybrid computer	See FPMR Temp. Reg. F-500
Individual, as used in Subpart 201-6.1	101-35.1702
Information processing resource	See FPMR Temp. Reg. F-500
Intercity data, facsimile, and record telecommunication services.	101-37.201-5
Joint utilization	101-36.902-3
Listening-in devices, as used in Subpart 201-6.2.	101-37.311-1
Local data, facsimile, and record telecommunication services.	101-37.201-5
Local dialing area	101-37.201-5
Lowest overall cost	1-4.1102-10
Lowest overall cost for purposes of telecommunication acquisitions.	1-4.1301-4; FPR Temp. Reg. 51
Mailing list	101-36.301-9a
Maintain, as used in Subpart 201-6.1	101-35.1702
Maintenance services	1-4.1102-4 101-35.202-4
Mandatory requirements	1-4.1102-15
Maximum practicable competition	1-4.1102-9
Minimize	101-37.702
Noncompetitive (sole source) requirement.	1-4.1102-8
Nonconsensual, as used in Subpart 201-6.2.	101-37.311-1
Physical security	101-35.302

ATTACHMENT A—DERIVATION TABLE FOR DEFINITIONS IN PART 201-2—Continued

FIRMR words and terms in § 201-2.001	FPR/FPMR sources
	101-36.701
Project grants	101-36.301-18
Reassignment	101-36.301-7
Record, as used in Subpart 201-6.1	101-35.1702
Related ADPE supplies	1-4.1102-5 101-35.202-5
Remote terminal emulation terms (a) System under test (SUT) (b) Internal emulation (c) Remote terminal emulation (d) Driver (e) Monitor (f) Remote terminal emulator (RTE)	1-4.1102-6
Reutilization	101-36.301-15
Rules of conduct, as used in Subpart 201-6.1.	101-35.1702
Safeguards, as used in Subpart 201-6.1.	1-4.1202-6 101-35.1702
Security specifications, as used in Part 201-7.	101-35.302
Selection plan	1-4.1102-17 1-4.1301-2; FPR Temp. Reg. 51
Sensitive application system, as used in Part 201-7.	101-35.302
Sensitive data, as used in Part 201-7	101-35.302
Software terms (a) Software (b) Commercially available software (c) Application software (d) Computer data base (e) Computer software documentation (f) Software conversion (g) Software redesign (h) Reprograming (i) Recording (j) Automated translation (k) Common-use software (l) Federal Software Exchange Center (FSEC) (m) Computer program	1-4.1102-2 101-35.202-2 101-36.1602
Standard terminology	101-36.1303-1
Surplus	101-36.301-5
System/item life	1-4.1102-11 1-4.1301-3; FPR Temp. Reg. 51
System of records on individuals, as used in Subpart 201-6.1.	101-35.1702
Telecommunication facilities	101-37.105-1
Telecommunication services	101-37.105-1
Threats and hazards, as used in Subpart 201-6.1.	1-4.1202-5 101-35.1702
Transfer	101-36.301-14
User	101-36.201; FPMR Temp. Reg. F-499
Validation of compilers	101-36.1303-7
Want list	101-36.301-10
Withdrawal	101-36.301-12

ATTACHMENT B—DERIVATION TABLE FOR PART 201-6

FIRMR sections	FPR/FPMR sources
201-6.000	101-35.1700 101-37.311
201-6.001	101-35.1702 101-37.311-1
201-6.101	101-35.1701
201-6.102	101-35.1700 101-35.1703
201-6.103	101-35.1704
201-6.103-1	101-35.1704-1
201-6.103-2	101-35.1704-2
201-6.104	1-4.1200-3
201-6.201	101-37.311
201-6.202	101-37.311
201-6.202-1	101-37.311-2
201-6.202-2	101-37.311-3
201-6.203	101-37.311-4

ATTACHMENT B—DERIVATION TABLE FOR PART 201-6—Continued

FIRMR sections	FPR/FPMR sources
201-6.204	101-37.311-5

ATTACHMENT C—DERIVATION TABLE FOR PART 201-7

FIRMR sections	FPR/FPMR sources
201-7.000	101-35.309
	101-36.700
201-7.001	101-35.302
201-7.101	101-35.301
201-7.102	101-35.303
201-7.103	101-35.304
201-7.103-1	101-35.304-1
201-7.103-2	101-35.304-2
201-7.104	101-35.305
201-7.105	101-35.306
201-7.106	101-35.307
201-7.107	101-35.308
201-7.201	101-36.702
201-7.202	101-36.703
201-7.203	101-36.704
201-7.204	101-36.705
201-7.205	101-36.706

In this Attachment D, the asterisk (*) means § 101-29.303 prior to Amendment E-252 dated March 25, 1983.

ATTACHMENT D—DERIVATION TABLE FOR PART 201-8

FIRMR sections	FPR/FPMR sources
201-8.000	None
201-8.100	101-36.1300
201-8.100-1	None
201-8.101	101-36.1301
201-8.101-1	None
201-8.101-2	None
201-8.101-3	101-29.303*
201-8.102	101-36.1302
201-8.102-1	101-36.1302-1
201-8.102-2	101-36.1302-2
201-8.102-3	101-36.1302-3
201-8.103	101-36.1303
201-8.103-1	101-36.1303-2
201-8.103-2	101-36.1303-3
201-8.103-3	101-36.1303-4
201-8.103-4	101-36.1303-5
201-8.104	1-4.1109-25
201-8.105	101-36.1304
201-8.105-1	101-36.1304-1
201-8.105-2	101-36.1304-2
201-8.105-3	101-36.1304-3
201-8.105-4	101-36.1304-4
201-8.105-5	101-36.1304-5
201-8.105-6	101-36.1304-6
201-8.105-7	101-36.1304-7
201-8.105-8	101-36.1304-8
201-8.105-9	101-36.1304-9
201-8.105-10	101-36.1304-10
201-8.105-11	101-36.1304-11
201-8.105-12	101-36.1304-12
201-8.105-13	101-36.1304-13
201-8.105-14	101-36.1304-14
201-8.105-15	101-36.1304-15
201-8.105-16	101-36.1304-16
201-8.105-17	101-36.1304-17
201-8.105-18	101-36.1304-18
201-8.105-19	101-36.1304-19
201-8.105-20	101-36.1304-20; Temp. Reg. 2
201-8.105-21	101-36.1304-21
201-8.105-22	101-36.1304-22
201-8.105-23	101-36.1304-23; Temp. Reg. 2
201-8.105-24	101-36.1304-27
201-8.105-28	101-36.1304-28

ATTACHMENT D—DERIVATION TABLE FOR PART 201-8—Continued

FIRMR sections	FPR/FPMR sources
201-8.105-29	101-36.1304-29
201-8.105-30	101-36.1304-30
201-8.105-31	101-36.1304-31
201-8.105-32	101-36.1304-32
201-8.105-33	101-36.1304-33
201-8.105-34	See Temp. Reg. 2
201-8.106	101-36.1305
201-8.106-2	101-36.1305-2
201-8.106-3	101-36.1305-3
201-8.106-4	101-36.1305-4
201-8.106-5	101-36.1305-5
201-8.106-6	See Temp. Reg. 2
201-8.107	101-36.1310
201-8.107-1	101-36.1310-1
201-8.107-2	101-36.1310-2
201-8.107-3	101-36.1310-3
201-8.108	101-36.1310-4
201-8.109	101-36.1311
201-8.110	101-36.1307
201-8.110-1	101-36.1307-1
201-8.111	101-36.1306
201-8.112	101-36.1308
201-8.112-1	101-36.1308-1
201-8.112-4	101-36.1308-4
201-8.112-5	101-36.1308-5
201-8.112-6	101-36.1308-6
201-8.112-7	101-36.1308-7
201-8.112-11	101-36.1308-15
201-8.112-13	101-36.1308-17
201-8.112-14	101-36.1308-18
201-8.112-16	101-36.1308-20
201-8.112-17	101-36.1308-21
201-8.112-18	101-36.1308-22
201-8.119	101-36.1309
201-8.113-1	101-36.1309-1
201-8.113-2	101-36.1309-2
201-8.113-3	101-36.1309-3
201-8.113-4	101-36.1309-4
201-8.113-5	101-36.1309-5
201-8.113-6	101-36.1309-6
201-8.113-7	See Temp. Reg. 2

ATTACHMENT E—DERIVATION TABLE FOR PART 201-11

FIRMR sections	FPR/FPMR sources
201-11.000	None
201-11.001	None
201-11.001-1	None
201-11.002	None
201-11.002-1	1-4.1103-1
	1-4.1206
	1-4.1206-1
	101-35.203-1
	101-35.203-2
201-11.002-2	1-4.1109-2
	1-4.1206-5
201-11.003	None
201-11.003-1	1-4.1302-2; FPR Temp. Reg. 51
201-11.003-2	1-4.1302-2; FPR Temp. Reg. 51

ATTACHMENT F—DERIVATION TABLE FOR PART 201-16

FIRMR sections	FPR/FPMR sources
201-16.000	None
201-16.001	None
201-16.002	101-35.204
	See Temp. Reg. F-499
	See Temp. Reg. F-500

ATTACHMENT G—DERIVATION TABLE FOR PART 201-20

FIRMR sections	FPR/FPMR sources
201-20.000	None
201-20.001	None
201-20.002	101-35.203-3
201-20.003	1-4.1103-2
	101-35.203-4
201-20.004	101-35.203-8
201-20.005	101-35.203-9
201-20.006	101-35.203-7; FPMR Temp. Reg. F-492
201-20.007	101-35.203-6
201-20.008	101-36.1001
201-20.011	None
201-20.011-1	None
201-20.011-2	None
201-20.011-3	1-4.1211
201-20.011-4	1-4.1213
201-20.011-5	1-4.1212
201-20.012	None
201-20.012-1	None
201-20.012-2	None
201-20.012-3	1-4.1210
201-20.012-4	None
201-20.013	None
201-20.014	101-35.212

ATTACHMENT H—DERIVATION TABLE FOR PART 201-21

FIRMR sections	FPR/FPMR sources
201-21.000	None
201-21.001	101-37.302(e)
201-21.002	None
201-21.003	101-37.307
201-21.003-1	101-37.307-1
201-21.003-2	101-37.307-2
201-21.003-3	101-37.308
201-21.004	None
201-21.005	101-37.112
201-21.006	None
201-21.007	None
201-21.011	101-37.103
	101-37.104
201-21.012	101-37.110
	101-37.402
	101-37.402-1
201-21.012-1	101-37.402-2
201-21.012-2	101-37.402-3
201-21.012-3	101-37.402-4
201-21.013	101-37.107
201-21.014	101-37.105-2
	101-37.105-3
	101-37.106
201-21.015	101-37.110
201-21.015-1	101-37.403
201-21.015-2	101-37.404
201-21.016	None
201-21.017	101-37.111
	101-37.405

ATTACHMENT I—DERIVATION TABLE FOR PART 201-23

FIRMR sections	FPR/FPMR sources
201-23.000	None
201-23.102	1-4.1104; FPR Temp. Reg. 71
201-23.103	1-4.1104; FPR Temp. Reg. 71
	1-4.1203
201-23.104	1-4.1104
	1-4.1203
201-23.104-1	1-4.1104-1; FPR Temp. Reg. 71
201-23.104-2	1-4.1104-2; FPR Temp. Reg. 71
201-23.104-3	1-4.1104-3; FPR Temp. Reg. 71

ATTACHMENT I—DERIVATION TABLE FOR PART 201-23—Continued

FIRMR sections	FPR/FPMR sources
201-23.104-4	1-4.1104-4
201-23.104-5	1-4.1203
	See FPR Temp. Reg. 71
	See Temp. Reg. 1
201-23.104-6	1-4.1203
201-23.105	1-4.1104; FPR Temp. Reg. 71
201-23.106	1-4.1105; FPR Temp. Reg. 64
201-23.106-1	1-4.1105
	1-4.1203-1
201-23.106-2	See FPR Temp. Reg. 64
201-23.107	1-4.1106
	See FPR Temp. Reg. 64
	1-4.1203
201-23.111	None
201-23.111-1	1-4.1106-1
201-23.111-2	1-4.1106-2
201-23.112	1-4.1107
201-23.112-1	1-4.1107; FPR Temp. Reg. 64
201-23.112-2	1-4.1107-1; FPR Temp. Reg. 64
201-23.201	1-4.1104-5
201-23.202	None
201-23.203	None

ATTACHMENT J—DERIVATION TABLE FOR PART 201-24

FIRMR sections	FPR/FPMR sources
201-24.000	None
201-24.100	None
201-24.101	None
201-24.102	None
201-24.103	1-4.1103-5
	1-4.1206-8
201-24.104	1-4.1205; Temp. Reg. 1
201-24.105	1-4.1103-4
201-24.106	1-4.1103-3
	101-35.203-5
201-24.200	None
201-24.201	None
201-24.202	1-4.1109-18
	101-35.203-10
	101-35.207-1
201-24.203	1-4.1109-18
	101-35.203-10
201-24.204	1-4.1109-19
201-24.205	1-4.1109-18
201-24.206	None
201-24.207	1-4.1109-12
	1-4.1206-4
201-24.208	101-35.210
	See FPMR Temp. Reg. F-500
201-24.208-1	None
201-24.209	1-4.1206-3
201-24.210	1-4.1206-6
201-24.211	1-4.1109-10
201-24.212	1-4.1109-11
201-24.213	1-4.1109-21
201-24.214	1-4.1109-23
	1-4.1206-7
201-24.215	1-4.1109-22
201-24.216	1-4.1103-6; FPR Temp. Reg. 71
201-24.300	None
201-24.301	None
201-24.302	None
201-24.303	None
201-24.304	1-4.1302-2; FPR Temp. Reg. 51
201-24.305	1-4.1301-5; FPR Temp. Reg. 51, Supp.2

ATTACHMENT K—DERIVATION TABLE FOR PART 201-30

FIRMR sections	FPR/FPMR sources
201-30.000	None
201-30.001	None
201-30.002	None
201-30.003	None
201-30.004	None
201-30.005	None
201-30.006	None
201-30.007	101-35.207; FPMR Temp. Reg. F-500
201-30.007-1	101-35.207-2; FPMR Temp. Reg. F-500
201-30.008	101-35.208
	See FPMR Temp. Reg. F-500
201-30.009	101-35.209; FPMR Temp. Reg. F-500
201-30.009-1	101-35.209; FPMR Temp. Reg. F-500
201-30.010	None
201-30.011	None
201-30.012	101-35.206
	101-35.206-1
201-30.012-1	1-4.1109-13
	1-4.1206-2
	101-35.206-2
201-30.012-2	1-4.1109-14
201-30.013	101-35.205
201-30.014	None
201-30.015	None
201-30.016	None
201-30.017	None
201-30.018	None
201-30.018-1	1-4.1212
201-30.018-2	1-4.1211
201-30.018-3	1-4.1213

ATTACHMENT L—DERIVATION TABLE FOR PART 201-31

FIRMR sections	FPR/FPMR sources
201-31.000	None
201-31.001	None
201-31.002	101-36.202; FPMR Temp. Reg. F-499
201-31.003	101-36.203; FPMR Temp. Reg. F-499
201-31.004	101-36.203-1; FPMR Temp. Reg. F-499
201-31.005	101-36.203-3; FPMR Temp. Reg. F-499
201-31.006	101-36.203-4 and 101-36.4701; FPMR Temp. Reg. F-499
201-31.010	101-36.8
201-31.010-1	101-36.802; FPMR Temp. Reg. F-499
201-31.010-2	101-36.803; FPMR Temp. Reg. F-499
201-31.010-3	101-36.804; FPMR Temp. Reg. F-499
	101-36.804
201-31.010-4	101-36.805
201-31.012	101-36.9
201-31.012-1	101-36.903
201-31.012-2	101-36.904
201-31.012-3	101-36.905
	101-36.905-1
	101-36.905-2
	101-36.905-3
	101-36.905-4
	101-36.905-5
201-31.012-4	101-36.906
201-31.012-5	101-36.907

ATTACHMENT L—DERIVATION TABLE FOR PART 201-31—Continued

FIRMR sections	FPR/FPMR sources
201-31.012-6	101-36.908
201-31.014	101-36.1600
201-31.014-1	101-36.1601
	101-36.1603
201-31.014-2	101-36.1604
201-31.014-3	101-36.1605
201-31.014-4	101-36.1606
201-31.014-5	101-36.1607
201-31.014-6	101-36.1608
201-31.014-7	101-36.1609
201-31.014-8	101-36.1610
201-31.014-9	101-36.1611
201-31.014-10	101-36.1612
201-31.014-11	101-36.1613

ATTACHMENT M—DERIVATION TABLE FOR PART 201-32

FIRMR sections	FPR/FPMR sources
201-32.000	1-4.1100
	1-4.1200
201-32.100	None
201-32.101	None
201-32.102	101-35.211
201-32.103	1-4.1108
201-32.104	1-4.1109-20
	1-4.1206-9
201-32.105	1-4.1206-10
201-32.106	1-4.1109-3
201-32.107	1-4.1109-8
201-32.108	1-4.1109-24
201-32.200	None
201-32.203	1-4.1109-15
201-32.204	1-4.1111
201-32.205	1-4.1110
201-32.205-1	1-4.1110-1
201-32.205-2	1-4.1110-2
201-32.205-3	1-4.1110-3
201-32.205-4	1-4.1110-3
201-32.205-5	1-4.1110-3
201-32.206	1-4.1109-6
	1-4.1109-6; FPR Temp. Reg. 71
201-32.207	1-4.1109-7
201-32.208	1-4.1109-17
201-32.300	None
201-32.301	None
201-32.302	1-4.1200-3
	1-4.1208
201-32.302-1	1-4.1208-1
201-32.302-2	1-4.1208-2
	1-4.1208-2; Temp. Reg. 1
201-32.303	1-4.1209
	1-4.1209; Temp. Reg. 1
201-32.303-1	1-4.1209-1
201-32.303-2	1-4.1209-2
	1-4.1209-2; Temp. Reg. 1
201-32.303-3	1-4.1209-3; Temp. Reg. 1
201-32.303-4	1-4.1209-4
201-32.304	1-4.1210

ATTACHMENT N—DERIVATION TABLE FOR PART 201-33

FIRMR sections	FPR/FPMR sources
201-33.000	None
201-33.001	101-36.300
201-33.002	101-36.302
201-33.003	101-36.303
201-33.003-1	101-36.303-1
201-33.003-2	101-36.303-2
201-33.003-3	101-36.303-3
201-33.004	101-36.304
201-33.005	101-36.305
201-33.006	101-36.306
201-33.007	101-36.307
201-33.008	101-36.308

ATTACHMENT N—DERIVATION TABLE FOR PART 201-33—Continued

FIRMR sections	FPR/FPMR sources
201-33.009	101-36.309
201-33.009-1	101-36.309-1
201-33.009-2	101-36.309-2
201-33.009-3	101-36.309-3
201-33.009-4	101-36.309-4
201-33.009-5	101-36.309-5
201-33.010	101-36.310
201-33.010-1	101-36.310-1
201-33.010-2	101-36.310-2
201-33.010-3	101-36.310-3
201-33.011	101-36.4702
201-33.011-1	101-36.4702-1
201-33.011-2	101-36.4702-2
201-33.011-3	101-36.4702-3
201-33.011-4	101-36.4702-4

ATTACHMENT O—DERIVATION TABLE FOR PART 201-34

FIRMR sections	FPR/FPMR sources
201-34.000	None
201-34.002	101-36.14
201-34.002-1	101-36.1402
	101-36.1402-1
	101-36.1402-3
	101-36.1403
	101-36.1404
201-34.002-2	101-36.1402-2
201-34.004	None
201-34.006	101-36.1200
	101-36.1201
	101-36.1202
201-34.006-1	101-36.1203
201-34.006-2	101-36.1204
201-34.006-3	101-36.1205
201-34.006-4	101-36.1206
201-34.006-5	101-36.1207

ATTACHMENT P—DERIVATION TABLE FOR PART 201-38

FIRMR sections	FPR/FPMR sources
201-38.000	None
201-38.001	None
201-38.002	None
201-38.003	None
201-38.004	None
201-38.005	None
201-38.006	None
201-38.007	101-37.105-4
201-38.008	101-37.312
201-38.008-1	101-37.312-1
201-38.008-2	101-37.312-2
201-38.009	101-37.313
201-38.010	See FPMR Temp. Reg. F-502
201-38.014	None
201-38.014-1	1-4.1302; FPR Temp. Reg. 51
201-38.014-2	1-4.1302-1; FPR Temp. Reg. 51
201-38.014-3	1-4.1302-2; FPR Temp. Reg. 51
201-38.015	None
201-38.016	None
201-38.017	1-4.1306; FPR Temp. Reg. 51

ATTACHMENT Q—DERIVATION TABLE FOR PART 201-39

FIRMR sections	FPR/FPMR sources
201-39.000	None
201-39.001	101-37.201
	101-37.205
201-39.002	101-37.202

ATTACHMENT Q—DERIVATION TABLE FOR PART 201-39—Continued

FIRMR sections	FPR/FPMR sources
201-39.002-1	101-37.202(a) (1) and (3) thru (11)
201-39.002-2	101-37.202(b)
201-39.002-3	101-37.202(c); FPMR Temp. Reg. F-502
201-39.002-4	101-37.202(e)
201-39.002-5	101-37.202(f)
201-39.002-6	101-37.202(g)
201-39.002-7	101-37.202(a)(2)
201-39.006	101-37.201-1
	101-37.201-2
	101-37.203
	101-37.210
201-39.006-1	101-37.203(a)
201-39.006-2	101-37.203(b)
201-39.006-3	101-37.204-2
201-39.006-4	101-37.203(c); FPMR Temp. Reg. F-502
201-39.006-5	See Temp. Reg. F-502
201-39.006-6	101-37.202(a)(2)
	101-37.203(e)
201-39.007	None
201-39.007-1	101-37.201-1
201-39.007-2	101-37.201-2
	101-37.204-1
	101-37.205
201-39.007-3	See Temp. Reg. F-502

ATTACHMENT R—DERIVATION TABLE FOR PART 201-40

FIRMR sections	FPR/FPMR sources
201-40.000	None
201-40.001	None
201-40.002	None
201-40.002-1	1-4.1304-1; FPR Temp. Reg. 51
201-40.003	1-4.1208
201-40.004	None
201-40.005	None
201-40.006	1-4.1303; FPR Temp. Reg. 51
201-40.007	1-4.1303; FPR Temp. Reg. 51
201-40.007-1	1-4.1303; FPR Temp. Reg. 51
201-40.008	1-4.1305; FPR Temp. Reg. 51

ATTACHMENT S—DERIVATION TABLE FOR Part 201-41

FIRMR sections	FPR/FPMR sources
201-41.000	None
201-41.001	101-37.301
	101-37.302
201-41.002	101-37.303
201-41.003	101-37.305
	101-37.306
201-41.004	101-37.310
201-41.005	101-37.309
201-41.005-1	101-37.309-1
201-41.005-2	101-37.309-2
201-41.006	101-37.501
201-41.007	101-37.304
	101-37.501
	101-37.502
	101-37.503
	101-37.504
	101-37.506
201-41.008	101-37.7
201-41.008-1	101-37.700
	101-37.701
201-41.008-2	101-37.703
	101-37.703-1
	101-37.703-2
	101-37.703-3

ATTACHMENT S—DERIVATION TABLE FOR Part 201-41—Continued

FIRMR sections	FPR/FPMR sources
201-41.008-3	101-37.704
	101-37.704-1
	101-37.704-2
	101-37.704-3
201-41.009	101-37.8
201-41.009-1	101-37.800
201-41.009-2	101-37.801-1
	101-37.801-2
	101-37.801-3
	101-37.801-4
201-41.009-3	101-37.802
	101-37.802-1
	101-38.802-2
201-41.009-4	101-37.803
201-41.010	101-37.6
201-41.010-1	101-37.601
201-41.010-2	101-37.603
201-41.010-3	101-37.604
201-41.010-4	101-37.605

(11) Distribution Table.

In this Attachment T, one asterisk (*) means as it pertains to information resources activities and two asterisks (**) means § 101-29.303 prior to Amendment E-252 dated March 25, 1983.

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201

FPR/FPMR sources	FIRMR sections
1-1.000*	201-1.000
1-1.001*	201-1.000
1-1.002*	201-1.101
	201-1.102
1-1.004*	201-1.103
1-1.005*	201-1.104
1-1.005-1*	201-1.104-1
1-1.005-2*	201-1.104-1
1-1.005-3*	201-1.104-3
1-1.005-4*	201-1.502
1-1.007*	201-1.104-2
1-1.008*	201-1.301
	201-1.302
	201-1.303
	201-1.304
1-1.009*	201-1.400
1-1.009-1*	201-1.401
1-1.009-3	201-1.402
	201-1.403
1-4.1100	201-1.000
	201-1.101
	201-32.000
1-4.1100-1	201-1.101-1
1-4.1100-2	201-1.102-2
	201-1.502
1-4.1100-3	201-1.402
	201-1.403
1-4.1101	201-1.103
1-4.1102-1	201-2.001
1-4.1102-2	201-2.001
1-4.1102-3	201-2.001
1-4.1102-4	201-2.001
1-4.1102-5	201-2.001
1-4.1102-6	201-2.001
1-4.1102-7	201-2.001
1-4.1102-8	201-2.001
1-4.1102-9	201-2.001
1-4.1102-10	201-2.001
1-4.1102-11	201-2.001
1-4.1102-12	201-2.001
1-4.1102-13	201-2.001
1-4.1102-14	201-2.001
1-4.1102-15	201-2.001
1-4.1102-16	201-2.001
1-4.1102-17	201-2.001
1-4.1102-18	201-2.001
1-4.1103-1	201-11.002-1
1-4.1103-2	201-20.003
1-4.1103-3	201-24.106
1-4.1103-4	201-24.105
1-4.1103-5	201-24.103
1-4.1103-6	201-24.216

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201—Continued

FPR/FPMR sources	FIRMR sections
1-4.1104	201-23.102
	201-23.103
	201-23.104
	201-23.105
1-4.1104-1	201-23.104-1
1-4.1104-2	201-23.104-2
1-4.1104-3	201-23.104-3
1-4.1104-4	201-23.104-4
1-4.1104-5	201-23.201
1-4.1104-6	201-23.104-6
1-4.1105	201-23.106
	201-23.106-1
1-4.1106	201-23.107
1-4.1106-1	201-23.111-1
1-4.1106-2	201-23.111-2
1-4.1107	201-23.112
	201-23.112-1
1-4.1107-1	201-23.112-2
1-4.1108	201-32.103
1-4.1109	201-1.601
	201-1.602
1-4.1109-1	201-1.102-1
	201-1.601
	201-1.602
1-4.1109-2	201-11.002-2
1-4.1109-3	201-32.106
1-4.1109-6	201-32.206
1-4.1109-7	201-32.207
1-4.1109-8	201-32.107
1-4.1109-10	201-24.211
1-4.1109-11	201-24.212
1-4.1109-12	201-24.207
1-4.1109-13	201-30.012-1
1-4.1109-14	201-30.012-2
1-4.1109-15	201-32.203
1-4.1109-16	201-24.205
1-4.1109-17	201-32.208
1-4.1109-18	201-24.202
	201-24.203
1-4.1109-19	201-24.204
1-4.1109-20	201-32.104
1-4.1109-21	201-24.213
1-4.1109-22	201-24.215
1-4.1109-23	201-24.214
1-4.1109-24	201-32.108
1-4.1109-25	201-8.104
1-4.1110	201-32.205
1-4.1110-1	201-32.205-1
1-4.1110-2	201-32.205-2
1-4.1110-3	201-32.205-3
	201-32.205-4
	201-32.205-5
1-4.1111	201-1.000
	201-1.101
	201-32.204
1-4.1200	201-32.000
	201-1.000
	201-1.101
1-4.1200-1	201-1.101-1
1-4.1200-2	201-1.102-2
	201-1.602
1-4.1200-3	201-8.104
	201-32.302
1-4.1200-4	201-1.402
	201-1.403
1-4.1201	201-1.103
1-4.1202-1	201-2.001
1-4.1202-2	201-2.001
1-4.1202-3	201-2.001
1-4.1202-4	201-2.001
1-4.1202-5	201-2.001
1-4.1202-6	201-2.001
1-4.1202-7	201-2.001
1-4.1203	201-23.103
	201-23.104
	201-23.104-5
	201-23.104-6
	201-23.107
1-4.1203-1	201-23.106-1
1-4.1204	201-1.102-1
	201-1.601
	201-1.602
1-4.1205	201-24.104
1-4.1206	201-11.002-1
1-4.1206-1	201-11.002-1
1-4.1206-2	201-30.012-1
1-4.1206-3	201-24.209
1-4.1206-4	201-24.207
1-4.1206-5	201-11.002-2
1-4.1206-6	201-24.210

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201—Continued

FPR/FPMR sources	FIRMR sections
1-4.1206-7	201-24.214
1-4.1206-8	201-24.103
1-4.1206-9	201-32.104
1-4.1206-10	201-32.105
1-4.1208	201-32.302
	201-40.003
1-4.1208-1	201-32.302-1
1-4.1208-2	201-32.302-2
1-4.1209	201-32.303
1-4.1209-1	201-32.303-1
1-4.1209-2	201-32.303-2
1-4.1209-3	201-32.303-3
1-4.1209-4	201-32.303-4
1-4.1210	201-20.012-3
	201-32.304
1-4.1211	201-20.011-3
	201-30.018-2
1-4.1212	201-20.011-5
	201-30.018-1
1-4.1213	201-20.011-4
	201-30.018-3
1-4.1301-1	201-2.001
1-4.1301-2	201-2.001
1-4.1301-3	201-2.001
1-4.1301-4	201-2.001
1-4.1301-5	201-2.001
	201-24.305
1-4.1302	201-38.014-1
1-4.1302-1	201-38.014-2
1-4.1302-2	201-11.003-1
	201-11.003-2
	201-24.304
	201-38.014-3
1-4.1303	201-40.006
	201-40.007
	201-40.007-1
1-4.1304-1	201-40.002-1
1-4.1304-2	201-40.002-1
1-4.1305	201-40.008
1-4.1306	201-38.017
101-1.100 *	201-1.000
101-1.101 *	201-1.101
101-1.102 *	201-1.101
101-1.103 *	201-1.101-2
101-1.104 *	201-1.104
101-1.104-1 *	201-1.104-1
101-1.105 *	201-1.102
101-1.106 *	201-1.103
101-1.107 *	201-1.502
101-1.108 *	201-1.301
	201-1.302
	201-1.303
101-1.109 *	201-1.104-1
	201-1.104-2
101-1.110 *	201-1.402
	201-1.403
101-11.302-1	201-1.101
101-11.302-2	201-1.102
	201-1.102-3
101-11.603-1	201-1.102-3
101-29.303 **	201-8.101-3
101-35.200	201-1.101
101-35.200-1	201-1.101-1
101-35.201	201-1.103
101-35.202-1	201-2.001
101-35.202-2	201-2.001
101-35.202-3	201-2.001
101-35.202-4	201-2.001
101-35.202-5	201-2.001
101-35.202-6	201-2.001
101-35.202-7	201-2.001
101-35.202-8	201-2.001
101-35.202-9	201-2.001
101-35.203-1	201-11.002-1
101-35.203-2	201-11.002-1
101-35.203-3	201-20.002
101-35.203-4	201-20.003
101-35.203-5	201-24.106
101-35.203-6	201-20.007
101-35.203-8	201-20.004
101-35.203-9	201-20.005
101-35.203-10	201-24.202
	201-24.203
101-35.204	201-16.002
101-35.205	201-30.013
101-35.206	201-30.012
101-35.206-1	201-30.012
101-35.206-2	201-30.012-1
101-35.207	201-30.007
101-35.207-1	201-24.202

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201—Continued

FPR/FPMR sources	FIRMR sections
101-35.207-2	201-30.007-1
101-35.208	201-30.008
101-35.209	201-30.009
	201-30.009-1
101-35.210	201-24.208
101-35.211	201-32.102
101-35.212	201-20.014
101-35.300	201-7.000
101-35.301	201-7.101
101-35.302	201-2.001
	201-7.001
101-35.303	201-7.102
101-35.304	201-7.103
101-35.304-1	201-7.103-1
101-35.304-2	201-7.103-2
101-35.304-3	201-7.103-3
101-35.304-4	201-7.103-4
101-35.305	201-7.104
101-35.306	201-7.105
101-35.307	201-7.106
101-35.308	201-7.107
101-35.1700	201-6.000
	201-6.102
101-35.1701	201-6.101
	201-6.102
101-35.1702	201-2.001
	201-6.001
101-35.1703	201-6.102
101-35.1704	201-6.103
101-35.1704-1	201-6.103-1
101-35.1704-2	201-6.103-2
101-36.001	201-1.102-2
101-36.201	201-2.001
101-36.202	201-31.002
101-36.203	201-31.003
101-36.203-1	201-31.004
101-36.203-3	201-31.005
101-36.203-4	201-31.006
101-36.300	201-33.001
101-36.301-1	201-2.001
101-36.301-2	201-2.001
101-36.301-3	201-2.001
101-36.301-4	201-2.001
101-36.301-5	201-2.001
101-36.301-6	201-2.001
101-36.301-7	201-2.001
101-36.301-8	201-2.001
101-36.301-9	201-2.001
101-36.301-9a	201-2.001
101-36.301-10	201-2.001
101-36.301-11	201-2.001
101-36.301-12	201-2.001
101-36.301-13	201-2.001
101-36.301-14	201-2.001
101-36.301-15	201-2.001
101-36.301-16	201-2.001
101-36.301-17	201-2.001
101-36.301-18	201-2.001
101-36.301-19	201-2.001
101-36.302	201-33.002
101-36.303	201-33.003
101-36.303-1	201-33.003-1
101-36.303-2	201-33.003-2
101-36.303-3	201-33.003-3
101-36.304	201-33.004
101-36.305	201-33.005
101-36.306	201-33.006
101-36.307	201-33.007
101-36.308	201-33.008
101-36.309	201-33.009
101-36.309-1	201-33.009-1
101-36.309-2	201-33.009-2
101-36.309-3	201-33.009-3
101-36.309-4	201-33.009-4
101-36.309-5	201-33.009-5
101-36.310	201-33.010
101-36.310-1	201-33.010-1
101-36.310-2	201-33.010-2
101-36.310-3	201-33.010-3
101-36.700	201-7.000
101-36.701	201-2.001
101-36.702	201-7.201
101-36.703	201-7.202
101-36.704	201-7.203
101-36.705	201-7.204
101-36.706	201-7.205
101-36.8	201-31.010
101-36.801-1	201-2.001
101-36.802	201-31.010-1
101-36.803	201-31.010-2

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201—Continued

FPR/FPMR sources	FIRMR sections
101-36.804	201-31.010-3
101-36.805	201-31.010-4
101-36.9	201-31.012
101-36.902-1	201-2.001
101-36.902-2	201-2.001
101-36.902-3	201-2.001
101-36.902-4	201-2.001
101-36.903	201-31.012-1
101-36.904	201-31.012-2
101-36.905	201-31.012-3
101-36.905-1	201-31.012-3
101-36.905-2	201-31.012-3
101-36.905-3	201-31.012-3
101-36.905-4	201-31.012-3
101-36.905-5	201-31.012-3
101-36.906	201-31.012-4
101-36.907	201-31.012-5
101-36.908	201-31.012-6
101-36.1001	201-20.008
101-36.1102-1	201-2.001
101-36.1200	201-34.006
101-36.1201	201-34.006
101-36.1202	201-34.006
101-36.1203	201-34.006-1
101-36.1204	201-34.006-2
101-36.1205	201-34.006-3
101-36.1206	201-34.006-4
101-36.1207	201-34.006-5
101-36.1300	201-8.100
101-36.1301	201-8.101
101-36.1302	201-8.102
101-36.1302-1	201-8.102-1
101-36.1302-2	201-8.102-2
101-36.1302-3	201-8.102-3
101-36.1303	201-8.103
101-36.1303-1	201-2.001
101-36.1303-2	201-8.103-1
101-36.1303-3	201-8.103-2
101-36.1303-4	201-8.103-3
101-36.1303-5	201-8.103-4
101-36.1303-6	201-2.001
101-36.1303-7	201-2.001
101-36.1304	201-8.105
101-36.1304-1	201-8.105-1
101-36.1304-2	201-8.105-2
101-36.1304-3	201-8.105-3
101-36.1304-4	201-8.105-4
101-36.1304-5	201-8.105-5
101-36.1304-6	201-5.105-6
101-36.1304-7	201-8.105-7
101-36.1304-8	201-8.105-8
101-36.1304-9	201-8.105-9
101-36.1304-10	201-8.105-10
101-36.1304-11	201-8.105-11
101-36.1304-12	201-8.105-12
101-36.1304-13	201-8.105-13
101-36.1304-14	201-8.105-14
101-36.1304-15	201-8.105-15
101-36.1304-16	201-8.105-16
101-36.1304-17	201-8.105-17
101-36.1304-18	201-8.105-18
101-36.1304-19	201-8.105-19
101-36.1304-20	201-8.105-20
101-36.1304-21	201-8.105-21
101-36.1304-22	201-8.105-22
101-36.1304-23	201-8.105-23
101-36.1304-27	201-8.105-24
101-36.1304-28	201-8.105-28
101-36.1304-29	201-8.105-29
101-36.1304-30	201-8.105-30
101-36.1304-31	201-8.105-31
101-36.1304-32	201-8.105-32
101-36.1304-33	201-8.105-33
101-36.1305	201-8.106
101-36.1305-2	201-8.106-2
101-36.1305-3	201-8.106-3
101-36.1305-4	201-8.106-4
101-36.1305-5	201-8.106-5
101-36.1306	201-8.111
101-36.1307	201-8.110
101-36.1307-1	201-8.110-1
101-36.1308	201-8.112
101-36.1308-1	201-8.112-1
101-36.1308-4	201-8.112-4
101-36.1308-5	201-8.112-5
101-36.1308-6	201-8.112-6
101-36.1308-7	201-8.112-7
101-36.1308-15	201-8.112-11
101-36.1308-17	201-8.112-13
101-36.1308-18	201-8.112-14

ATTACHMENT T—DISTRIBUTION TABLE FOR CHAPTER 201—Continued

FPR/FPMR sources	FIRMR sections
101-36.1308-20	201-8.112-16
101-36.1308-21	201-8.112-17
101-36.1308-22	201-8.112-18
101-36.1309	201-8.113
101-36.1309-1	201-8.113-1
101-36.1309-2	201-8.113-2
101-36.1309-3	201-8.113-3
101-36.1309-4	201-8.113-4
101-36.1309-5	201-8.113-5
101-36.1309-6	201-8.113-6
101-36.1310	201-8.107
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(12) Executive Summary.

The General Services Administration is assigned a central management leadership role in service, support and regulatory activities in the merging technologies and opportunities of automatic data processing, telecommunications, office automation, and records management. The Federal Information Resources Management Regulation (FIRMR) reflects this leadership role and is GSA's regulatory issuance vehicle. The dynamics of information resources management require cooperation and understanding from all parties involved in the

interrelationships. The FIRMR organization structure is designed to foster understanding and cooperation.

The FIRMR is divided into subchapters to accommodate the special responsibilities of the various participants.

Subchapter A contains topics of general interest such as applicability, authorities (Part 201-1) and definitions (Part 201-2).

Subchapter B addresses predominant (and sometimes overriding) considerations such as personal privacy (201-6), standards (201-8) and competition (201-11).

Subchapter C is addressed primarily to the planning, organizing, and controlling interests of senior officials and executives. Topics include planning and budgeting (201-16), management program considerations for ADP (201-20) and telecommunications (201-21), delegations of GSA authorities (201-23) and reporting requirements (201-26).

Subchapter D contains operational provisions organized by functional areas.

The appendices contain temporary rules, information and guidance bulletins, and various listings for management assistance.

Specialized procurement and contracting rules (with Government-wide applicability and the force and effect of law) are integrated with management and use provisions with the intent of increasing awareness of the changing use of information resources for increased productivity in agency mission and program accomplishment. These provisions must be used in conjunction with the Government-wide Federal Acquisition Regulation (FAR). Both FIRMR and FAR systems authorize agency implementation and supplementation issuances.

The intent is to present policies and procedures in a clear, logically organized manner so that all parties, even if organizationally separated, can identify their responsibilities in the context of the total management process. Where a choice is possible, guidelines and frameworks rather than detailed regulations are used and will be a continuing objective. GSA actively seeks agency participation in the regulatory development process. Comments are always welcome and will be carefully considered.

(13) Chapter 201 Table of Parts.

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

SUBTITLE E—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATIONS SYSTEM

CHAPTER 201—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATION

EXECUTIVE SUMMARY (NONREGULATORY)

Note.—The Executive Summary will not be published in the Code of Federal Regulations.

SUBCHAPTER A—GENERAL

Part 201-1—Federal Information Resources Management Regulations System
Part 201-2—Definitions of words and terms
Parts 201-3 through 201-5 [Reserved]

SUBCHAPTER B—PREDOMINANT CONSIDERATIONS

Part 201-6—Protection of Personal Privacy
Part 201-7—Security of Information Resources Systems
Part 201-8—Implementation and Use of Federal Standards
Parts 201-9 and 201-10 [Reserved]
Part 201-11—Competition
Parts 201-12 through 201-15 [Reserved]

SUBCHAPTER C—ADMINISTRATION OF INFORMATION RESOURCES ACTIVITIES

Part 201-16—Planning and Budgeting for Information Resources Activities
Parts 201-17 through 201-19 [Reserved]
Part 201-20—ADP Management Programs
Part 201-21—Telecommunications Management Programs
Part 201-22 [Reserved]
Part 201-23—Delegations of Authority
Part 201-24—Acquisition Policies
Part 201-25 [Reserved]
Part 201-26—Reporting Requirements
Parts 201-27 through 201-29 [Reserved]

SUBCHAPTER D—INFORMATION RESOURCES OPERATIONS

Part 201-30—Management of ADP Resources
Part 201-31—Sharing of ADP Resources
Part 201-32—Contracting for ADP Resources
Part 201-33—Reuse of ADP Equipment
Part 201-34—Supporting ADP Activities
Parts 201-35 through 37 [Reserved]
Part 201-38—Management of Telecommunication Resources
Part 201-39—Major Changes and New Installation of Telecommunication Resources
Part 201-40—Contracting for Telecommunication Resources
Part 201-41—Routine Changes and Use of the Federal Telecommunications System (FTS)
Parts 201-42 through 201-49 [Reserved]

Appendices

Appendix A—Temporary Regulations
Appendix B—Bulletins
Appendix C—List of Current Issuances
Appendix D—[Reserved]
Appendix E—Illustration of Forms
Appendix F [Reserved]
Appendix G [Reserved]

Note.—Only Appendix A will be published in the Code of Federal Regulations.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Chapter 201 of Title 41 of the Code of Federal Regulations is amended as set forth below:

SUBCHAPTER A—GENERAL

1. Part 201-1 is revised as follows:

PART 201-1—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATIONS SYSTEM

Sec.
201-1.000 Scope of part.
201-1.001-1 Information resources management (IRM).

Subpart 201-1.1—Purpose, Authority, Applicability, and Issuance

201-1.101 Purpose.
201-1.101-1 Relationship to other Government-wide regulations.
201-1.101-2 Additional FIRMR publications.
201-1.102 Authority.
201-1.102-1 Delegations.
201-1.102-2 Other related authorities.
201-1.102-3 Exclusions.
201-1.103 Applicability.
201-1.104 Issuance.
201-1.104-1 Publication and code arrangement.
201-1.104-2 Arrangement of regulations.
201-1.104-3 Copies.

Subpart 201-1.2—Administration

201-1.201 Maintenance of the FIRMR.
201-1.202 Agency compliance with the FIRMR.

Subpart 201-1.3—Agency Regulations

201-1.301 Policy.
201-1.302 Limitations.
201-1.303 Codification and public participation.
201-1.304 Agency control and compliance procedures.

Subpart 201-1.4—Deviations From the FIRMR

201-1.400 Scope of subpart.
201-1.401 Definition of deviation.
201-1.402 Policy.
201-1.403 Procedures.

Subpart 201-1.5—Agency and Public Participation

201-1.501 Definition of significant changes.
201-1.502 Solicitation of agency and public views.
201-1.503 Agency and public meetings.

Subpart 201-1.6—Contracting Rules

201-1.601 FAR Rules.
201-1.602 FIRMR rules.
201-1.603 Agency rules.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-1.000 Scope of part.

This part sets forth basic policies and general information about the Federal Information Resources Management Regulations System (FIRMR system). The purpose, authority, applicability, issuance and maintenance of the FIRMR system are addressed. Other subjects under the FIRMR system include agency compliance, implementation, supplementation, deviation and contracting rules. Agency and public participation in the FIRMR system rulemaking process is also covered.

§ 201-1.000-1 Information resources management.

(a) "Information resources management (IRM)" is a concept for integrating and focusing a variety of activities on managing information throughout the life cycle (from collection or creation through final disposal), and in each segment of it in furtherance of program and agency objectives. It involves managing data and information in such a way that program and agency managers are able to obtain and use information efficiently, effectively, and economically.

(b) To date there is no universally agreed to definition of IRM. A single definition of IRM would be considered too restrictive by some groups, and too broad by others.

(c) Under the Paperwork Reduction Act of 1980, Pub. L. 96-511 [44 U.S.C. 3506(c)], agency information management activities include "* * * planning, budgeting, organizing, directing, training, promoting, controlling, and other managerial activities involving the collection, use, and dissemination of information * * * ". The Office of Management and Budget has broad Government-wide authorities and functions [44 U.S.C. 3504] for accomplishing all purposes of the Act.

(d) The FIRMR is limited to Government-wide regulations governing agency information activities regarding the management, acquisition, and use of certain automatic data processing, records, and telecommunications resources under the authorities cited (see § 201-1.102).

Subpart 201-1.1—Purpose, Authority, Applicability, and Issuance

§ 201-1.101 Purpose.

(a) The FIRMR system is established to publish and codify uniform policies and procedures pertaining to information resources activities by Federal or executive agencies (as applicable), and by Government contractors as directed by agencies. (See § 201-1.103.)

(b) The FIRMR system consists of the Federal Information Resources Management Regulation (FIRMR), which is the primary document, and agency regulations that implement or supplement the FIRMR. The FIRMR includes policies and procedures for administering and maintaining the FIRMR system.

(c) FIRMR temporary regulations shall have a limited effectivity period. These are authorized for publication when time or exceptional circumstances does not permit the full participation by agencies or the public before promulgation of an amendment for codification in the Code of Federal Regulations (CFR). These temporary regulations will be codified or cancelled by the designated expiration date. FIRMR temporary regulations have the same force and effect as codified material.

§ 201-1.101-1 Relationship to other Government-wide regulations.

(a) *Federal Acquisition Regulation (FAR).* The FAR (48 CFR Chapter 1) contains general acquisition regulations. Acquisition portions of the FIRMR are the special category of procurement and contracting regulations to be used in conjunction with the FAR. Contracting for certain automatic data processing and telecommunications resources shall be accomplished in accordance with the FAR and the FIRMR. (See also Subpart 201-1.6.)

(b) *Federal Procurement Regulations (FPR).* The FIRMR replaces FPR Subparts 1-4.11, 1-4.12, and 1-4.13 and FPR §§ 1-1.004—Applicability and 1-1.009-3—Limitation on deviations.

(c) *Federal Property Management Regulations (FPMR).* (1) The FIRMR replaces Subchapter F (Parts 101-35, 101-36, and 101-37) of the FPMR.

(2) The FIRMR selectively replaces certain portions of Subchapter B (Part 101-11) as those portions are consolidated into the FIRMR. These actions will be accomplished in coordination with the Archivist of the United States.

(3) Information resources activities are subject to the remainder of the FPMR to the extent applicable.

(d) *FPMR and FPR applicability to solicitations issued before FIRMR effective date.* The replaced portions of the FPMR and FPR listed in paragraphs (b) and (c) above, continue to apply to information resources solicitations (and resultant contracts) issued before April 1, 1984. The administration of this paragraph (d) shall be consistent with similar circumstances applied in the administration of the procurement and contracting regulations replaced by the FAR.

(e) *Interim implementation of the FIRMR.* As an interim implementation measure, the FIRMR, exclusive of Part 201-1, uses renumbered FPR and FPMR provisions. These provisions are contained in Parts 201-4, 201-35, 201-36, 201-37 and temporary regulations related to the parts. These FIRMR provisions, even though originally published and distributed as FPMR and FPR provisions, shall be referred to by their FIRMR (renumbered) identification. Interim provisions were superseded by full text provisions on the effective date of Amendment 1.

§ 201-1.101-2 Additional FIRMR publications.

(a) The General Services Administration (GSA) will issue from time to time subsidiary nonregulatory publications to provide guidance and information.

(b) The FIRMR bulletin series addresses specific information resources areas that benefit from broad dissemination. FIRMR bulletins are published as Appendix B, and an Index of Current Issuances as Appendix C, both in the looseleaf edition only.

(c) FIRMR handbooks and reports address specific program or technical areas where the audience generally will be defined by the subject matter. Procedural implementation of regulatory material uses the handbook format. General distribution of handbooks and reports is not generally made. FIRMR bulletins announce their availability. An Index of Current Handbooks and Reports is published as Appendix D, in the looseleaf edition only.

§ 201-1.102 Authority.

(a) The FIRMR is prepared, issued, and maintained, and the FIRMR system is prescribed, by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949, Pub. L. 152, 81st Congress (63 Stat. 377), as amended (the "Property Act"), particularly section 205(c) (40 U.S.C. 486(c)), and other authorities cited.

(b) "Property Act" authorities addressed in the FIRMR include—

(1) Section 110 (40 U.S.C. 757) regarding the Federal Telecommunications Fund, a revolving fund which is available without fiscal year limitation;

(2) Section 111 (40 U.S.C. 759) regarding automatic data processing (ADP) resources acquisition and management, including exclusive

procurement authority, the ADP Fund (a revolving fund which is available without fiscal year limitation), and relations between GSA, the agencies, and the Office of Management and Budget (OMB);

(3) Section 201 (40 U.S.C. 481) regarding procurement and related property management activities, including multiyear contracting authority for telecommunications and exchange/sale authority;

(4) Section 203 (40 U.S.C. 484) regarding property disposal;

(5) Section 206 (40 U.S.C. 487) regarding implementation of Federal standards;

(6) Title III (41 U.S.C. 251 et seq.) regarding procurement procedure; and

(7) Section 602(c) regarding relationship of "Property Act" authority to other statutory authority.

(c) Other authorities addressed in the FIRMR include—

(1) Section 7 of the Act of June 14, 1946 (40 U.S.C. 295), as amended, regarding telecommunications.

(2) Pub. L. 90–620 (44 U.S.C. 2901–2910, Chapter 29 and 44 U.S.C. 3101–3107, Chapter 31), as amended, regarding records management.

(3) Pub. L. 96–511 (44 U.S.C. 3501 et seq.), Paperwork Reduction Act of 1980, particularly section 3504 regarding records management, section 3513 regarding selective triennial review of agency information management activities, and section 3505 regarding development of a five-year plan for meeting the ADP and telecommunications needs of the Federal Government.

§ 201–1.102–1 Delegations.

GSA grants delegations of authority for agencies or activities to carry out responsibilities vested in GSA, including exclusive procurement authority for ADP. The FIRMR contains certain blanket delegations, references to certain delegations granted to meet specific information resources needs, and provisions for requesting and granting certain other delegations. (See Part 201–23.)

§ 201–1.102–2 Other related authorities.

(a) Presidential directives addressed in the FIRMR include—

(1) Presidential letter of July 1, 1949 (14 FR 3699; 3 CFR) issued pursuant to section 205(a) regarding exercise of Property Act authorities; and

(2) Executive Order 12472 of April 3, 1984 (49 FR 13471, April 5, 1984) regarding national security and emergency preparedness telecommunications functions (superseding Presidential memorandum of August 21, 1963 (28 FR 9413; 3 CFR)).

(b) The FIRMR, as well as agency regulations and implementations, are subject to the OMB oversight as provided by—

(1) The "Property Act";

(2) The Paperwork Reduction Act of 1980, including section 3506(c)(4) regarding agency accountability and section 3518(d) regarding authority relationships; and

(3) The Office of Federal Procurement Policy Act of 1974, Pub. L. 93–400 (41 U.S.C. 401 et seq.), as amended, including section 16(3) (41 U.S.C. 414) regarding agency responsibility and section 6(h) (41 U.S.C. 405(h)) regarding authority relationships.

(c) The authority conferred upon the Administrator of General Services (and the Secretary of Commerce) by Pub. L. 89–306 (40 U.S.C. 759) concerning ADP resources will be exercised subject to direction by the President and to fiscal and policy control exercised by OMB. Authority so conferred upon the Administrator shall not be construed as to impair or interfere with the determination by agencies of their individual ADP resources requirements, including the development of specifications for and the selection of the types and configurations of equipment needed. The Administrator will not interfere with, nor attempt to control in any way, the use made of ADP resources by any agency. The Administrator will provide adequate notice to all agencies and other users concerned with respect to each proposed determination specifically affecting them or the ADP resources used by them. In the absence of mutual agreement between the Administrator and the agency or user concerned, such proposed determination will be subject to review and decision by OMB unless the President otherwise directs. When an agency submits these matters to OMB for resolution, copies of the submission and all relevant data and information (other than that previously furnished by the agency) shall be furnished to the Assistant Administrator for Information Resources Management (K), General Services Administration, Washington, DC 20405. Copies of data or information submitted to OMB by GSA in this connection will also be furnished to the agency concerned.

(d) Agency heads are subject to management direction contained in Executive orders and other Presidential direction, and OMB Circulars, including A–10, A–11, A–40, A–71, A–108, A–121, and A–123. The present value concept in A–94 is applied in the FIRMR. The applicability of A–76 and A–109 to agency information resources activities is as determined and directed by OMB.

(e) As a part of their ongoing oversight activities, Members of Committees of the Congress from time to time request information or express concerns regarding various facets of information resources activities. GSA will solicit the cooperation of agencies from time to time in order to be responsive to these queries.

§ 201–1.102–3 Exclusions.

(a) In accordance with Pub. L. 97–86 (10 U.S.C. 2315), the FIRMR does not apply to the procurement of automatic data processing equipment and services for certain defense purposes, if the function, operation, or use—

(1) Involves intelligence activities;

(2) Involves cryptologic activities related to national security;

(3) Involves the command and control of military forces;

(4) Involves equipment that is an integral part of a weapon or weapons system; or

(5) Is critical to the direct fulfillment of military or intelligence missions, but not including ADP equipment or services to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) In accordance with Pub. L. 97–269 (50 U.S.C. 403c(e)), the FIRMR does not apply to the procurement by the Central Intelligence Agency of automatic data processing equipment or services.

(c) The FIRMR does not apply to other information resources activities by agencies to the extent that they are specifically exempted by law.

§ 201–1.103 Applicability.

(a) *General.* The FIRMR applies to information resources activities by Federal or executive agencies (as applicable), and by Government contractors as directed by agencies, to the extent specified in the "Property Act", or in other law (see § 201–1.102).

(b) *ADP activities.* (1) The FIRMR applies to the management, acquisition, and use of ADP resources by Federal agencies regardless of use or application, including Government-acquired ADP resources provided to contractors. ADP resources include ADP equipment, software, related supplies, maintenance services, ADP services, and ADP support services.

(2) Agencies shall require their Government contractors to apply the policies and procedures in the FIRMR to the management, acquisition and use of ADP equipment, software, maintenance, and related supplies when the very

subject matter of a contract is for the performance of commercial ADP services or support services for a Federal agency, and when—

(i) The Government requires the contractor to purchase ADP equipment or software for the account of the Government; or

(ii) The Government requires the contractor to pass title to ADP equipment or software to the Government; or

(iii) The Government pays the full lease costs of ADP equipment or software under a cost-reimbursement contract.

(3) When the very subject matter of a contract is for something other than the contracting for ADP resources, agencies shall not require their Government contractors to apply the policies and procedures in the FIRMR even though commercially available ADP resources are used in contract performance. However, if it is operationally feasible to sever the ADP resources requirements from the overall requirement, they shall be severed and contracted for in accordance with the FIRMR if this action will promote economy, efficiency, and maximum practicable competition.

(4) The FIRMR applies to the use of GSA nonmandatory schedules for the acquisition of certain office automation equipment not defined as ADP equipment.

(c) *Telecommunications activities.* (1) The FIRMR applies to the management, acquisition, and use of telecommunications resources by executive agencies.

(2) The FIRMR also applies to telecommunications resources furnished by GSA to any Federal agency upon request from other agencies.

(3) The applicability of the telecommunications resources provisions of the FIRMR to the Department of Defense (DoD) is governed by the statement of areas of understanding between DoD and GSA (15 FR 8226, December 1, 1950).

(4) The telecommunications resources provisions of the FIRMR do not apply to the requirements of the following operational telecommunications services and facilities (except to the extent specified by each agency in its regulations or directives implementing and supplementing the FIRMR).

(i) Federal Aviation Agency facilities used for regulation and protection of air traffic.

(ii) National Aeronautics and Space Administration missile and satellite tracking facilities.

(iii) Veterans Administration facilities installed in a hospital complex for biomedical communications.

(iv) Bureau of Prisons facilities installed in penal or correctional institutions to meet physical security requirements.

(v) Tennessee Valley Authority noncommon-use facilities peculiar to operation of TVA projects.

(vi) Nuclear Regulatory Commission and the Department of Energy activities as successor agencies to the Atomic Energy Commission (AEC) in accordance with statement of understanding between AEC and GSA dated April 28, 1969.

(d) *Records management activities.* The FIRMR applies to records management activities by Federal agencies. In addition, records management provisions in FPMR Subchapter B (41 CFR 101–11) apply to Federal agencies.

(e) *Utilization and disposal activities.* The FIRMR applies to utilization management activities by Federal agencies. In addition, utilization and disposal provisions in FPMR Subchapter H (41 CFR 101–42 through 101–49) apply to Federal or executive agencies (as applicable).

(f) *Government contractors.* Except as provided in paragraph (b) above, the FIRMR does not apply to contractor acquisition of information resources for its own account in the performance of a Government contract.

(g) *Experts and consultants.* The FIRMR does not apply to the employment of experts and consultants pursuant to 5 U.S.C. 3109 regarding "personal services".

Note.—The FIRMR includes a blanket delegation of procurement authority for agencies to procure (non-personal) commercial ADP support services.

§ 201–1.104 Issuance.

§ 201–1.104–1 Publication and code arrangement.

(a) The FIRMR is published in (1) the daily issue of the **Federal Register**, (2) cumulated form in the Code of Federal Regulations (CFR), and (3) a separate looseleaf edition. Amendments and temporary regulations will be published in the **Federal Register** and in looseleaf form. Bulletins will be published in looseleaf form.

(b) The FIRMR is issued as Chapter 201 of Title 41, CFR. Subsequent chapters in Subtitle E of Title 41 are reserved for agency regulations that implement or supplement the FIRMR (see Subpart 201–1.3). The CFR Staff will assign FIRMR chapter numbers to requesting agencies.

(c) Each numbered unit or segment (e.g., part, subpart, section, etc.) of an agency regulation that is codified in the CFR shall begin with the chapter number.

§ 201–1.104–2 Arrangement of regulations.

(a) *General.* The FIRMR is divided into subchapters, parts (each of which deals with a separate aspect of information resources), subparts, sections, and subsections.

(b) *Numbering.* (1) The numbering system permits the discrete identification of every FIRMR paragraph. FIRMR material is preceded by digit 201–. This means that it is Chapter 201 in Title 41 of the Code of Federal Regulations. The digit(s) before the decimal point indicates the part. The digits after the decimal point indicate the subpart and section, respectively, the latter always in two digits. The digit(s) after the dash indicates the subsection. For example, subsection 201–1.104–2:

Chapter
201–
Part
1.
Subpart
1
Section
04
Subsection
–2

(2) Subdivisions may be used at the section and subsection level to identify individual paragraphs. Subdivisions below the section or subsection level shall consist of parenthetical alphanumerics reading from highest to lowest indenture as follows: Lower case alphabet, Arabic numbers, lower case Roman numerals, and upper case alphabet. The following example is illustrative:

(a)(1)(i)(A)

(c) *References and citations.* (1) Unless otherwise stated, cross-references indicate parts, subparts, sections, subsections, paragraphs, subparagraphs, or subdivisions of this regulation.

(2) This regulation may be referred to as the Federal Information Resources Management Regulation or the FIRMR.

(3) This regulation should be cited as "41 CFR 201–" followed by the appropriate inferior division numbers.

(4) Citations of authority (e.g., statutes or executive orders) in the FIRMR shall follow the **Federal Register** format.

§ 201–1.104–3 Copies.

(a) Copies of the FIRMR in **Federal Register** (daily) and CFR (cumulative, annually updated) form may be purchased from the Superintendent of

Documents, Government Printing Office (GPO), Washington, DC 20402.

(b) Copies of the FIRMR in looseleaf edition (cumulative reprint plus amendments and temporary regulations as issued) may be purchased by—

(1) Federal agencies from GSA; and

(2) The public from GPO.

Subpart 201–1.2—Administration

§ 201–1.201 Maintenance of the FIRMR.

(a) Subject to the authorities discussed in § 201–1.102, changes to the FIRMR shall be prepared and issued through the GSA Assistant Administrator for Information Resources Management by the Administrator of General Services. Specialized procurement and contracting provisions shall be coordinated with the GSA Assistant Administrator for Acquisition Policy. Records management provisions shall be coordinated with the Archivist of the United States. Issuance shall be made through the GSA Associate Administrator for Policy and Management Systems.

(b) The GSA Assistant Administrator for Information Resources Management shall be responsible for—

(1) Preparing the FIRMR regulatory agenda and attendant submissions;

(2) Preparing proposed changes to the FIRMR;

(3) Soliciting comments on proposed changes to the FIRMR;

(4) Considering all comments received in response to notice of proposed changes;

(5) Arranging for agency and public meetings;

(6) Preparing any final change in the appropriate FIRMR format and language;

(7) Submitting any final change to the **Federal Register** Liaison Officer for publication in the **Federal Register** and printing for distribution; and

(8) Performing miscellaneous administrative tasks pertaining to the maintenance of the FIRMR.

§ 201–1.202 Agency compliance with the FIRMR.

Agency compliance with the FIRMR (see Subpart 201–1.3) is the responsibility of the agency head. Responsibility for executive agency information management activities shall be carried out by the senior official (or in the case of military departments and the Office of the Secretary of Defense, officials) designated by the agency head according to the Paperwork Reduction Act of 1980 (44 U.S.C. 3506). Responsibility for executive agency procurement system management direction shall be carried out by the senior procurement executive designated by the agency head according to the Office of Federal Procurement Policy Act Amendments of 1983 (41 U.S.C. 414).

Subpart 201–1.3—Agency Regulations

§ 201–1.301 Policy.

(a) In conjunction with the FAR and subject to the authority in paragraph (c) of this section and other statutory authority, except as stated in paragraph (b) of this section, an agency head may issue or authorize the issuance of agency regulations that (1) implement or supplement the FIRMR and (2) incorporate, together with the FIRMR, agency-wide policies, procedures, solicitation provisions and contract clauses controlling activities within the scope of the FIRMR. Agency-wide regulations shall be published in the **Federal Register** as required by law.

(b) Subject to the authority in paragraph (c) of this section and other statutory authority, an agency head may issue or authorize the issuance of internal agency guidance at any organizational level (e.g., designations and delegations of authority, assignments or responsibilities, work-flow procedures, and internal reporting requirements). Such agency internal guidance need not be published in the **Federal Register**.

(c) Agency regulations addressing subject matter within the scope of the FIRMR (see § 201–1.000–1(d)) are subject to the regulatory authority (40 U.S.C. 486(c)) of the Administrator of General Services, unless otherwise specified by law.

§ 201–1.302 Limitations.

Unless otherwise specified by law, agency regulations shall be limited to—

(a) Those necessary to implement FIRMR policies and procedures within the agency; and

(b) Additional policies and procedures that supplement the FIRMR to satisfy the specific needs of the agency.

§ 201–1.303 Codification and public participation.

(a) Agency regulations that are published in the **Federal Register** shall be codified under an assigned chapter in Title 41, Code of Federal Regulations, and shall parallel the FIRMR in format, arrangement, and numbering systems. For exception, see paragraph (c) of this section. Coverage in any agency regulation that implements a specific part, subpart, section or subsection of the FIRMR shall be numbered and titled to correspond to the appropriate FIRMR number and title. Supplementary material for which there is no counterpart in the FIRMR shall be codified using chapter, part, subpart, section, or subsection numbers of 50 and up (e.g., for the Department of Interior, whose assigned FIRMR system chapter number in Title 41 is 214, Part 214–50, Subpart 214–1.50, section 214–1.350, or subsection 214–1.303–50.)

(b) Agency heads shall establish procedures to ensure public participation when appropriate in the promulgation of agency regulations that must be published in the **Federal Register** (see § 201–1.301(a)). The coverage on public participation in Subpart 201–1.5 shall be the principal guideline for establishing these procedures.

(c) Agency provisions that supplement or implement the FIRMR, and which pertain solely to the specialized procurement and contracting aspects of information resources activities, may be published in agency acquisition regulations; provided the agency complies with all applicable provisions of the FIRMR.

§ 201–1.304 Agency control and compliance procedures.

(a) Agencies shall control and limit issuance of agency regulations and shall establish formal procedures for the review of these regulations to ensure compliance with this Part 201–1.

(b) Agency regulations shall not—

(1) Unnecessarily repeat, paraphrase, or otherwise restate material contained in the FIRMR or higher-level agency regulations; or

(2) Conflict or be inconsistent with FIRMR content, except as required by law or as provided in Subpart 201–1.4.

(c) Agencies shall evaluate their regulatory coverage to determine if it could apply to other agencies. Coverage that is not peculiar to one agency shall be recommended for inclusion in the FIRMR.

Subpart 201–1.4—Deviations From the FIRMR

§ 201–1.400 Scope of subpart.

This subpart prescribes the policies and procedures for authorizing deviations from the FIRMR.

§ 201–1.401 Definition of deviation.

"Deviation", as used in Subpart 201–1.4, means any one or combination of the following:

(a) Issuance or use of a policy, procedure, or practice pertaining to information resources activities that is inconsistent with the FIRMR;

(b) Omission or modification of a policy, procedure, or practice that is required by the FIRMR; or

(c) Authorization of lesser or greater limitations upon the delegation, use, or application of a policy, procedure, or solicitation provision and contract clause that is specified in the FIRMR. (This does not include setting agency thresholds for agency management control purposes at levels other than in the FIRMR.)

§ 201-1.402 Policy.

Deviations from the FIRMR shall be kept to a minimum consistent with the specific needs and statutory authorities of each agency. Individual deviations may be authorized only by the Administrator of General Services or the officials designated by the Administrator for this purpose. Class deviations may be authorized only by the Administrator of General Services.

§ 201-1.403 Procedures.

(a) The agency head shall prescribe a formal agency procedure for the control of requests for deviations from the FIRMR. The procedure should include coordination with the agency designated senior official and the agency senior procurement executive. A copy of this procedure shall be provided upon request to the General Services Administration (KMPP), Washington, DC 20405.

(b) Each request shall explain the nature of and the reasons for the deviation.

(c) Agencies shall forward requests for deviations to the General Services Administration (KMPP), Washington, DC 20405.

Subpart 201-1.5—Agency And Public Participation

§ 201-1.501 Definition of significant changes.

"Significant changes" to the FIRMR, as used in Subpart 201-1.5, means changes that alter the substantive meaning of the FIRMR and are anticipated to have impact on the public or on agency information resources or program activities. This does not include editorial, stylistic, or other changes that have no impact on the substantive meaning of the FIRMR.

§ 201-1.502 Solicitation of agency and public views.

(a) Views of agencies and nongovernmental parties or organizations will be considered in formulating policies and regulations under the FIRMR.

(b) The opportunity to submit written comments on proposed significant changes to the FIRMR will be provided by a notice in the **Federal Register.** Each of these notices will state that—

(1) The text and explanation is available for examination; and

(2) Comments on the proposed coverage, addressed to the General Services Administration (KMPP), Washington, DC 20405, are solicited for consideration in the formulation of the final coverage that will be published in the **Federal Register.**

(c) Normally, at least 60 days is given for the receipt of comments.

(d) Comments need not be solicited if the (1) proposed coverage does not constitute a significant change to the FIRMR, or (2) solicitation is impractical, such as when a new statute must be implemented in a relatively short period of time.

(e) Consideration will also be given to unsolicited recommendations for changes to the FIRMR that have been submitted in writing with sufficient data and rationale to permit their evaluation.

§ 201-1.503 Agency and public meetings.

Agency or public meetings may be appropriate when actions regarding FIRMR coverage or information resources activities policies and procedures are likely to benefit from significant additional views and discussions.

Subpart 201-1.6—Contracting Rules

§ 201-1.601 FAR rules.

The FAR (48 CFR Ch. 1) provides general rules that must be used by executive agencies for all applicable acquisitions, including information resources acquisitions. The FAR does not contain the additional special category procurement and contracting rules that apply Government-wide to certain automatic data processing and telecommunications resources acquisitions.

§ 201-1.602 FIRMR rules.

The FIRMR provides the special category procurement and contracting rules that apply Government-wide to certain automatic data processing and telecommunications resources acquisitions. Acquisition portions of the FIRMR shall be used in conjunction with the FAR.

§ 201-1.603 Agency rules.

Agency rules pertaining to information resources acquisitions shall not conflict or be inconsistent with either FAR or FIRMR rules.

2. Part 201-2 is added to read as follows:

PART 201-2—DEFINITIONS OF WORDS AND TERMS

Sec.

201-2.000 Scope of part.
201-2.001 Definitions.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-2.000 Scope of part.

This part defines various words and terms used in the FIRMR. In some instances, for convenience, the definitions which are prominent in an individual part or subpart are reprinted in that part or subpart. The selection or nonselection of a particular definition to be reprinted in an individual subpart, however, does not affect the applicability of all definitions in this Part 201-2 to that part or subpart. Definitions with limited applicability are identified and their applicability is stated.

§ 201-2.001 Definitions.

"ADP" means automatic data processing.

"ADP equipment system." See Temp. Reg. 8.

"ADP Fund" means a financing mechanism administered by GSA and which, subject to GSA approval, is available without fiscal year limitation for financing the acquisition of ADPE and related items by lease, purchase, transfer, or otherwise.

"ADP resource." See Temp. Reg. 7.

"ADP resource system." See Temp. Reg. 7.

"ADP services" means the computation or manipulation of data by computers in support of administrative, financial, communicative, scientific, and other similar Federal agency data processing applications. This term includes teleprocessing (including remote batch) and local batch processing. (See also "commercial ADP services.")

"ADP sharing." See Temp. Reg. 7.

"ADP simulation" means the physical or mathematical representation of all or part of a computer system (including software) used for predicting or evaluating performance.

"ADP support services" means services, except maintenance services (see definition, this section), that are adjunct and essential to agency ADP activities but do not involve the actual computation or manipulation of data by a computer. This term includes source data entry, computer output microfilming, conversion, training, studies, facilities management of Government furnished ADP equipment, systems analysis and design, programing, equipment operation, and

computer performance evaluation. (See also "commercial ADP support services.")

"ADP system security" means the degree of protection of ADP equipment and data that is estabished through the application of technological safeguards, physical security measures, and administrative procedures applied to a sensitive application system, its component facilities and equipment, its software, and its data to ensure protection of a computer system and its telecommunications.

"ADP unit." See Temp. Reg. 7.

"Agency, as used in Subpart 201-6.1" is defined in 5 U.S.C. 551(1). It means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), and any independent regulatory agency.

"Agency controls, as used in Part 201-7" means those administrative and personnel measures used in conjunction with ADP administrative, technical, and physical security measures to achieve adequate comprehensive security.

"Agency, Federal"—see "Federal agency."

"Agency procurement request (APR)" means a request by a Federal agency for GSA to acquire ADPE, commercially available software, maintenance services, and commercial ADP services or for GSA to delegate the authority to acquire these items.

"Analog computer." See Temp. Reg. 8.

"Application software"—see "Software terms."

"Automated translation"—see "Software terms."

"Automatic data processing equipment (ADPE)." See Temp. Reg. 8.

"Automatic release date (ARD)" means the date established by GSA on which screening or advertising of excess Government-owned ADPE or exchange/sale ADPE to Federal agencies is terminated. The ARD signifies the date that Government-owned ADPE is transferred from excess to surplus status or the date the ADPE is released for exchange/sale. For Government-leased ADPE, the ARD is the date established by the holding agency as the date on which the equipment will be returned to the supplier.

"Availability list" means a listing of excess and exchange/sale ADPE available for reutilization by Federal agencies.

"Cannibalization" means the removal of a part or device which is not identifiable by a manufacturer's type or model number from an ADP component which is identifiable by a manufacturer's type or model number; or, the removal of any part or device from an ADP component which would cause that component not to function as intended by its manufacturer.

"Collocation" means the act of locating or relocating an ADP facility contiguous to or in another existing or planned ADP facility.

"Commercial ADP services" means the performance of ADP services by contractors.

"Commercial ADP services and support services subject to the Privacy Act" means those ADP services and ADP support services performed by Government contractors in connection with the operation by or on behalf of any executive agency of a system of records on individuals to accomplish an agency function from which information is retrieved by the name of an individual or some identifying number, symbol, or other identifying particular assigned to the individual. Therefore, the requirement is subject to the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a). (See also OMB Circular No. A-108, July 9, 1975, as supplemented, for policies and guidelines.)

"Commercial ADP support services" means the performance of ADP support services on a nonpersonal services basis.

"Commercially available software"—see "Software terms."

"Common-use software"—see "Software terms."

"Comparative cost analysis for purposes of telecommunications acquisition." See Temp. Reg. 4.

"Competitive requirement" means a Government requirement that is set forth in the form of functional specifications, equipment performance specifications, a combination thereof, software and equipment plug-to-plug compatible functionally equivalent descriptions, or brand name or equal descriptions, that allows maximum practicable competition and is devoid of unnecessary bias toward either a specific product or a specific offeror.

"Compiler" means the combination of equipment and software/firmware elements used to convert a source program written in a high level programing language into a form capable of being executed by a computer, or to cause a source program written in a high level programing language to be executed on a computer. The terms "interpreter" and "processor" can be used interchangeably with the term "compiler."

"Computer data base"—see "Software terms."

"Computer performance evaluation" means the measurement or simulation of system software and hardware performance in the normal processing environment in order to identify any possible improvements in portions of the systems software or modifications of hardware configuration.

"Computer program"—see "Software terms."

"Computer software documentation"—see "Software terms."

"Condition codes"—Single-position alpha-numeric condition codes shall be used to define the condition of all excess ADPE and supplies reported to GSA for reutilization. These codes are defined in FPMR § 101-43.4801 (e) and (f). The condition code reporting procedure is outlined in § 201-33.011.

"Consensual, as used in Subpart 201-6.2" means that one party to a telephone conversation has given prior consent to the interception or recording of the conversation.

"Consolidation" means the act of merging separate groupings of ADP resources into one ADP entity through joint utilization, establishment of a Federal Data Processing Center, or through some other similar cooperative arrangement.

"Data, facsimile, and record telecommunication services" means telecommunication services used for all types of data transmission, including data, facsimile, graphic, and record (including teletypewriter and telegraph) transmission but not including services used exclusively for voice, radio, video or audio transmission, or secure telecommunications purposes.

"Data processing facility." See Temp. Reg. 7.

"Data processing facility environment" means the aggregate of conditions that influence the performance of a data processing facility, personnel, and equipment.

"Data processing facility security" means those technological safeguards, physical security measures, and administrative procedures applied to a data processing facility and its equipment, software, data, and operational and user personnel, in order to ensure the protection of organizational assets, proprietary data, market information, individual privacy, etc.

"Data processing facility subject to OMB Circular A-121." See Temp. Reg. 7.

"Dedicated teleprocessing system" means the totality of an ADP resource system, or specified ADP resource subsystems thereof, of a teleprocessing system that is specifically reserved and priced on the basis of exclusive use by a single Government user or group of users. The term includes the ADPE

configuration, operating system, supporting software, application library and supporting communications interfaces, but normally excludes the data communication network that may be shared.

"Determination, as used in Subpart 201-6.2" means a written document (usually a letter) that specifies the operational need for listening-in or recording of telephone conversations, indicates the specific system and location where it is to be performed, lists the number of telephones and/or recorders involved, establishes operating times and an expiration date, and justifies the use. It is signed by the agency head or the agency head's designee.

"Digital computer." See Temp. Reg. 8.

"Driver"—see "Remote terminal emulation terms."

"Electronic features" means computer-controlled station equipment features of an electronic switching system (ESS) type telephone system, whether preprogramed or station-user activated by entering codes from the telephone set. Typical electronic features are call forwarding, call pickup, call hold, call park, speed calling, call queuing, etc.

"Electronic switching system (ESS)" means a computerized telephone system with software control that typically offers a variety of computer-controlled station equipment features called "electronic features." The term encompasses both computerized branch exchanges (CBX) with switching equipment located on the customer's premises and electronic switching systems (ESS), which typically have switching equipment located on the vendor's premises.

"Emergency traffic" means voice, data, or record traffic to emergency facilities or units, to local or State officials, and/or to controlling military or civil groups that have a direct bearing on the safety of life and property.

"Equipment performance specification for an ADP system" means a statement of minimum user output requirements such as (a) the amount of data that needs to be stored or processed within a given time, (b) the number of lines of print that must be produced over a given time, and (c) the operational reliability. The statement is supplemented to the extent necessary with (1) those hardware factors, devoid of as much vendor orientation as possible, such as cycle time, computing speed, tape read or write speed, printer speed, size of memory, expansibility (modularity), etc., and (2) the related software factors which are a measure of the operating capability of equipment. These factors when applied to the functional specifications, provide a quantitative measure of the operating time and capacity required to process the applications involved on that equipment.

"Essential traffic" means voice, data, or record traffic considered necessary to avoid a serious impact on an agency's mission or to provide support to units that are responsible for disaster control or relief.

"Evaluated optional features" means those technical requirements that are established by the Government but that do not have to be offered to be responsive (acceptable) to the specific solicitation. When set forth in a solicitation, all evaluated optional features must reflect the relative value of each feature to the Government. Each evaluated optional feature may be offered at the discretion of the offeror.

"Excess" means ADPE controlled by a Federal agency but not required for its needs and the discharge of its responsibilities as determined by the agency head.

"Exchange/sale ADPE" means Government-owned ADPE which is to be replaced pursuant to the exchange/sale authority contained in FPMR Part 101-46.

"Federal agency" means (a) any executive agency (executive department or independent establishment in the executive branch including any wholly owned Government corporation), or (b) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the Architect's direction) (see 40 U.S.C. 472).

"Federal agency for purposes of Part 201-33" means, in addition to the general definition in § 201-2.001, Government grantees and contractors of Federal agencies who operate ADPE under grants, contracts, or sucontracts and use the equipment in support of these grants, contracts, or subcontracts when ADPE is:

(a) Leased and the total cost of leasing is reimbursed under one or more Government contracts or grants; or

(b) Acquired by a contractor or grantee under a contract or grant pursuant to the terms of which title is either vested in the Government or the Government is obligated or has the option to take over title; or

(c) Furnished to the grantee or contractor by the Government; or

(d) Installed in Government-owned, contractor-operated facilities.

"Federal Data Processing Center (FDPC)" means a data processing center, operated either by GSA or by another agency under a delegation of authority from the Administrator of General Services, performing a variety of data processing or related services for two or more Federal agencies.

"Federal Software Exchange Center (FSEC)"—see "Software terms."

"Firmware" means any ADP hardware-oriented programing at the basic logic level of the computer that is used for machine control, error recovery, mathematical functions, applications programs, engineering analysis programs, and the like. Included are firmware that is furnished with ADPE, commercially available proprietary firmware that is acquired separately from ADPE, and all related vendor documentation and manuals.

"Full cost for purposes of OMB Circular A-121." See Temp. Reg. 7.

"Functional specification" means the delineation of the program objectives based on mission needs in a form that the ADP system is intended to accomplish and the data processing requirement underlying that accomplishment. The latter includes a description of the data output and its intended uses, the data input, the data files and record content, the volumes of data, the processing frequencies, timing, and such other facts as may be necessary to provide for a full description of the ADP mission need to be satisfied.

"Functional telecommunication system specification." See Temp. Reg. 4.

"General management computer for purposes of OMB Circular A-121." See Temp. Reg. 7.

"Government contractor, as used in Subpart 201-6.1" means any individual or other entity who provides by a contract for the operation by or on behalf of an agency of a system of records to accomplish an agency function.

"Grants" means grants-in-aid. Grants-in-aid are grants or subsidies from public resources in aid of public undertakings.

"Hold" means a reservation placed on reported excess ADPE by GSA in response to a request by a Federal agency.

"Holding agency" means the Federal agency which has accountability for the property involved.

"Hybrid computer." See Temp. Reg. 8.

"Individual, as used in Subpart 201-6.1" means a citizen of the United States or an alien lawfully admitted for permanent residence.

"Information processing resource." See Temp. Reg. 8.

"Intercity data, facsimile, and record telecommunication services" means

services which are used primarily to send and/or receive data, facsimile, and record telecommunication transmissions to a location or locations outside the local dialing area in which the transmission originates. This definition includes data, facsimile, and record telecommunication services used for local access to a commercial or Government-provided intercity network. It excludes those telecommunication services integral to the Teleprocessing Services Program (TSP). Severable telecommunication services for the TSP are included.

"Internal emulation"—see "Remote terminal emulation terms."

"Joint utilization" means the use by two or more organizations, under an agreement, of the same ADP facility with either a common staff or separate staffs, where the data processing needs of the partners are served exclusively.

"Listening-in devices, as used in Subpart 201–6.2" means such devices that can intercept any telephone communication and be used to listen-in or record telephone conversations without the knowledge of one or more of the parties to the conversation.

"Local data, facsimile, and record telecommunication services" means services which are used exclusively to send and/or receive data, facsimile, and record telecommunication transmissions to a location or locations within the local dialing area in which the transmission originates.

"Local dialing area" means the geographical area within which a telephone call can be made for which no commercial long distance toll charge or other similar charge can be assessed.

"Lowest overall cost." See Temp. Reg. 6.

"Lowest overall cost for purposes of telecommunication acquisitions." See Temp. Reg. 4.

"Mailing list" means an automated address list maintained by GSA for dissemination of the ADPE Availability List. Federal agencies (as defined in § 201–2.001 for purpose of Part 201–33) that are eligible for transfer of excess ADPE may request placement on the mailing list.

"Maintain, as used in Subpart 201–6.1" means maintain, collect, use, and disseminate.

"Maintenance services" means those examination, testing, repair, or part replacement functions performed to (a) reduce the probability of ADPE malfunction (commonly referred to as "preventive maintenance"), (b) restore to its proper operating status a component of ADPE that is not functioning properly (commonly referred to as "remedial maintenance"), or (c) modify the ADPE in a minor way (commonly referred to as "field engineering change" or "field modification").

"Mandatory requirements" means those contractual conditions and technical specifications that are established by the Government as being essential to meet the Government's needs. When set forth in a solicitation, the mandatory requirements must be met for the offer to be considered responsive (acceptable).

"Maximum practicable competition" means a negotiated contracting action when proposals are solicited from the maximum number of qualified sources, including small business concerns, consistent with the nature of and requirements for the supplies or services to be contracted for, to the end that the contracting action will be made to the best advantage of the Government, price and other factors considered. This requires an acquisition strategy, suitable to the circumstances, in which the statement of the user's requirement is set forth in the least restrictive terms possible without compromising economy or efficiency. It is designed to elicit from responsible firms capable of satisfying the needs, a number of favorable offers commensurate with the value of the contracting action. It is calculated to satisfy the users' needs at the lowest overall cost to the Government, price and other factors considered. The quantifiable cost of conducting the contracting action and other administrative costs directly related to the acquisition process are included.

"Minimize" means an administrative control procedure that restricts or limits voice, data, and record traffic over the FTS to certain areas during an emergency or disaster to facilitate the handling of emergency and essential voice, data, and record traffic.

"Monitor"—see "Remote terminal emulation terms."

"Noncompetitive (sole source) requirement" means that the Government's requirement is set forth in the form of necessary specifications so restrictive that (a) there is only one known supplier capable of satisfying the Government's requirement or (b) the acquisition is based on specific make and model specifications/purchase descriptions, notwithstanding the existence of adequate price competition as defined in FAR 15.804–3(b).

"Nonconsensual, as used in Subpart 201–6.2" means that none of the parties to a telephone conversation has given consent to the interception or recording of the conversation.

"Physical security" means the sum of construction features and the use of locks, safeguards, badges, and similar measures to control access to a facility (location). It includes the measures required to protect personnel and property, including the structures housing the computer, their contents, and related equipment, from (but not limited to) damage by accident, fire, loss of utilities, environmental hazards, and unauthorized access.

"Project grants" means grants made to specific institutions and organizations for a specific purpose with established costs and termination dates.

"Reassignment" means the transfer of ADPE other than excess within an agency when it is no longer needed for the purpose or use for which it was originally acquired.

"Recoding"—see "Software terms."

"Record, as used in Subpart 201–6.1" means any item, collection, or grouping of information about an individual that is maintained by an agency, including (but not limited to) the individual's education, financial transactions, medical history, and criminal or employment history and that contains the name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

"Related ADPE supplies" means consumable items designed specifically for use with ADPE, such as computer tape, ribbons, punch cards, and tabulating paper.

"Remote terminal emulation"—see "Remote terminal emulation terms."

"Remote terminal emulation terms" include—

(a) "System under test (SUT)" means an ADP system or component thereof whose performance is being validated during the acquisition process.

(b) "Internal emulation" means a technique used for teleprocessing performance validation in which the teleprocessing workload is introduced from software running internal to the SUT, either in the central processing unit, the communications front end, or, when the architecture supports it, some other processor configured as a part of the SUT.

(c) "Remote terminal emulation" means a technique for teleprocessing performance validation in which the driver and monitor components are implemented external to and independent of the SUT.

(d) "Driver" means a remote terminal emulation component, external to the SUT which introduces specified workload demands to the ADP system being tested.

(e) "Monitor" means a remote terminal emulation component, external

to the SUT, which records data descriptive of the remote terminal emulator/SUT interaction.

(f) "Remote terminal emulator (RTE)" means a specific hardware and software implementation of a teleprocessing workload driver (a monitor may or may not be an integral part of an RTE).

"Remote terminal emulator"—see "Remote terminal emulation terms."

"Reprograming"—see "Software terms."

"Reutilization" means the subsequent use of ADPE after such ADPE is no longer required for the purpose for which it had been acquired.

"Rules of conduct, as used in Subpart 201-6.1" means those administrative procedures, methods of work, and standards of conduct that together define the manner in which persons involved in the design, development, operation, or maintenance of systems of records will design, maintain, collect, use, or disseminate the records.

"Safeguards, as used in Subpart 201-6.1" means those procedures, methods, and devices that have as their specific function the prevention or mitigation of the effects of threats and hazards to a system of records on individuals to accomplish an executive agency function subject to the Privacy Act.

"Security specifications, as used in Part 201-7" means a detailed description of the safeguards required to protect a sensitive computer application or telecommunication system.

"Selection plan" means criteria and systematic procedures established to enable the Government to measure the proposal of an offeror against the requirements of the Government as set forth in the solicitation document. These criteria shall be based on the Government's requirements and shall not be equipment- or vendor-oriented, except where a brand name or equal specification or specific make or model description is needed to express the requirement adequately.

"Sensitive application system, as used in Part 201-7" means those ADP and telecommunication systems that require a degree of protection. The protection is required because these systems process sensitive data; the risk of loss or harm that could result from data disclosure, modification, or destruction is substantial; or the improper operation of the software or equipment related to the application system would have a serious effect on the ability of the agency to function. Examples of sensitive applications systems are (a) automated systems with little or no human intervention; e.g., check-issuing systems; (b) systems that process privileged information; e.g., proprietary data and economic forecasts; (c) systems that process personal information subject to the Privacy Act of 1974; and (d) systems where the loss or harm would be such that the organization could not effectively perform its mission and would have a substantial adverse effect on the Nation.

"Sensitive data, as used in Part 201-7" means data that require a degree of protection due to the risk and magnitude of loss or harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the data.

"Services, ADP"—see "ADP services."

"Software"—see "Software terms."

"Software conversion"—see "Software terms."

"Software redesign"—see "Software terms."

"Software terms" include—

(a) "Software" means computer programs, procedures, rules or routines specifically designed to make use of and extend the capabilities of ADPE and includes operating systems, assemblers, compilers, interpreters, data base management systems, utility programs, sort-merge programs, maintenance-diagnostic programs, and applications programs. The term encompasses operating systems software, independent subroutines, related groups of routines, sets or systems of programs, software documentation, firmware (see definition, this section) and computer data bases whether Government-owned or commercially available.

(b) "Commercially available software" means software that is available through lease or purchase in the commercial market from a concern representing itself to have ownership or marketing rights in the software. Software that is furnished as part of the ADP system but that is separately priced, is included.

(c) "Application software" means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations necessary to process requirements (such as payroll, inventory control, or automatic test and engineering analysis). Application software may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a specialized process or a particular user.

(d) "Computer data base" means a stored collection of data in a form capable of being processed and operated on or by a computer; i.e., the elements of stored data used by a computer in responding to a computer program.

(e) "Computer software documentation" means recorded information including computer listings and printouts that (1) documents the design or details of computer software, (2) explains the capabilities of the software, (3) provides data for testing the software, or (4) provides operating instructions.

(f) "Software conversion" means the transformation, without functional change, of computer programs or data elements to permit their use on a replacement or changed ADP equipment or teleprocessing service system.

(g) "Software redesign" means any change to software that involves a change in the functional specifications for that software.

(h) "Reprograming" means any change to software that deviates from the design specifications for that software but preserves the functional requirements of the user.

(i) "Recording" means a manual change to software on a line-for-line basis that preserves both the functional requirements and software design specifications.

(j) "Automated translation" means changes to software including machine-processed recoding that preserve both the functional requirements and software design specifications to the extent that no changes are apparent to the user.

(k) "Common-use software" means that portion of software which deals with problems common to many agencies, that would be useful to other agencies, and is written in such a way that minor variations in requirements can be accommodated without significant programing effort. Examples of such software are: Management business applications, computer systems support and utility programs, simulators, scientific or engineering applications, programing aids which are application-independent, and bibliographic or textual programs.

(l) "Federal Software Exchange Center (FSEC)" means an organization established pursuant to the authority of the Administrator of General Services for the collection, announcement, bibliographic control, and dissemination of common-use software among Federal agencies.

(m) "Computer program" means an identifiable series of instructions or statements, in a form acceptable to a computer, prepared to achieve a certain result.

"Standard terminology" means that language which is used in requirements statements, incorporated in requirements documents, including those used in purchase agreements, solicitations, and offers for acquisitions of ADP and telecommunication

equipment, services, and related software to ensure conformance with Federal Information Processing and Federal Telecommunication Standards.

"Support services, ADP"—see "ADP support services."

"Surplus" means any excess Government-owned ADPE not required for the needs and the discharge of the responsibilities of all Federal agencies as determined by the Administrator of General Services.

"System/item life" means a forecast or projection of the period of time that begins with the installation of the system/item and ends when the Government's need for that system/item has terminated. System/item life is established by the initial acquiring agency on the basis of its requirement and predicted reuse. System/item life is not necessarily synonymous with technological life (utility before becoming obsolete), physical life (utility before physically wearing out), or application life (utility in a given function).

"System of records on individuals, as used in Part 201–6" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

"System under test (SUT)"—see "Remote terminal emulation terms."

"Telecommunication facilities" means equipment used for such modes of transmission as telephone, telegraph, teletypewriter, data, facsimile, telephotograph, video, audio, and such corollary items as distribution systems and communications security facilities.

"Telecommunications services" means the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, visual, or other electronic, electric, electromagnetic, or acoustically coupled means. The term can include necessary "telecommunication facilities."

"Threats and hazards, as used in Subpart 201–6.1" means man-made or natural events the occurrence of which may result in the loss, alteration, or unauthorized access to data in a system of records on individuals to accomplish an executive agency function subject to the Privacy Act.

"Transfer" means:

(a) conveyance of leased excess ADPE from one Federal agency to another Federal agency, or to the ADP Fund, under the applicable contract provisions;

(b) Conveyance of Government-owned excess ADPE from one Federal agency to another Federal agency or to the ADP Fund;

(c) Conveyance of exchange/sale ADPE from one Federal agency to another Federal agency, or to the ADP Fund; or

(d) Conveyance of ADP Fund equipment to a Federal agency.

"User." See Temp. Reg. 7.

"Validation of compilers" means the process of testing a given compiler against certain predetermined conditions and specifying which, if any, conditions are met.

"Want list" means an inventory of ADPE requirements maintained by GSA on the basis of needs expressed by Federal agencies for which demand may be potentially satisfied from excess or exchange/sale ADPE when reported.

"Withdrawal" means a request for cancellation of a report of excess ADPE.

3. Part 201–3 is added and reserved to read as follows:

PART 201–3—[RESERVED]

4. Part 201–4 is removed and reserved to read as follows:

PART 201–4—[RESERVED]

5. Part 201–5 is added and reserved to read as follows:

PART 201–5—[RESERVED]

SUBCHAPTER B—PREDOMINANT CONSIDERATIONS

6. Parts 201–6, 201–7, and 201–8 are added to read as follows:

PART 201–6—PROTECTION OF PERSONAL PRIVACY

Sec.

201–6.000 Scope of part.
201–6.001 Definitions.

Subpart 201–6.1—Protection of Individual Privacy

201–6.101 Applicability.
201–6.102 Requirements.
201–6.103 Interagency services.
201–6.103–1 User agency responsibilities.
201–6.103–2 Provider agency responsibilties.
201–6.104 Implementation in contracts.

Subpart 201–6.2—Listening-in or Recording of Telephone Conversations

201–6.201 Applicability.
201–6.202 General.
201–6.202–1 Nonconsensual listening-in or recording.
201–6.202–2 Consensual listening-in or recording.
201–6.203 Agency responsibilities.
201–6.204 GSA responsibilities.
201–6.205 Use of line identification equipment.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201–6.000 Scope of part.

This part prescribes policies and procedures that apply requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and OMB Circular No. A–108, July 9, 1975, as supplemented, to ADP and telecommunications service arrangements involving, or potentially involving a system of records on individuals. This part also provides policies and procedures regarding listening-in or recording of telephone conversations.

§ 201–6.001 Definitions.

"Agency, as used in Subpart 201–6.1" is defined in 5 U.S.C. 551(1). It means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), and any independent regulatory agency.

"Government contractor, as used in Subpart 201–6.1" means any individual or other entity who provides by a contract for the operation by or on behalf of an agency of a system of records to accomplish an agency function.

"Individual, as used in Subpart 201–6.1" means a citizen of the United States or an alien lawfully admitted for permanent residence.

"Maintain, as used in Subpart 201–6.1" means maintain, collect, use, and disseminate.

"Record, as used in Subpart 201–6.1" means any item collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains the name, identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voice print or a photograph.

"Rules of conduct, as used in Subpart 201–6.1" means those administrative procedures, methods of work, and standards of conduct that together define the manner in which persons involved in the design, development, operation, or maintenance of systems of records will design, maintain, collect, use, or disseminate the records.

"Safeguards, as used in Subpart 201–6.1" means those procedures, methods, and devices that have as their specific function the prevention or mitigation of the effects of threats and hazards to a system of records on individuals to

accomplish an executive agency function subject to the Privacy Act.

"Systems of records on individuals, as used in Subpart 201–6.1" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

"Threats and hazards, as used in Subpart 201–6.1" means man-made or natural events, the occurrence of which may result in the loss, alteration, or unauthorized access to data in a system of records on individuals to accomplish an executive agency function subject to the Privacy Act.

"Consensual, as used in Subpart 201–6.2" means that one party to a telephone conversation has given prior consent to the interception or recording of the conversation.

"Determination, as used in Subpart 201–6.2" means a written document (usually a letter) that specifies the operational need for listening-in or recording of telephone conversations, indicates the specific system and location where it is to be performed, lists the number of telephones and/or recorders involved, establishes operating times and an expiration date, and justifies the use. It is signed by the agency head or the agency head's designee.

"Listening-in devices, as used in Subpart 201–6.2" means such devices that can intercept any telephone communication and be used to listen-in or record telephone conversations without the knowledge of one or more of the parties to the conversation.

"Nonconsensual, as used in Subpart 201–6.2" means that none of the parties to a telephone conversation has given consent to the interception or recording of the conversation.

Subpart 201–6.1—Protection of Individual Privacy

§ 201–6.101 Applicability.

This subpart applies only to agencies as defined in § 201–6.001.

§ 201–6.102 Requirements.

(a) The Privacy Act of 1974 sets forth certain safeguards to protect personal privacy by requiring agencies to abide by the provisions of the Act. Keeping only an essential minimum of records is the most effective protection against further incursions into personal privacy and is a major goal of the Act. Agencies shall also comply with § 201–32.302 and FAR Subpart 24.1, Protection of Individual Privacy when acquiring ADP equipment, software, maintenance, or services and/or telecommunications equipment, maintenance, or services.

(b) The Privacy Act of 1974 requires each agency that maintains a system of records to do the following:

(1) Maintain in its records only that information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President (5 U.S.C. 552a(e)(1)). Thus, protection of privacy is promoted by limiting the amount of information maintained.

(2) Establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records or in maintaining any record, and instruct each such person with respect to those rules and the requirements of this section, including rules and procedures adopted pursuant to this section and the penalties for noncompliance (5 U.S.C. 552a(e)(9)).

(3) Establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained (5 U.S.C. 552a(e)(10)). It should be noted that the development of appropriate safeguards will necessarily be tailored to the requirements of the system of records being maintained. In addition, the need to provide safeguards may be influenced by other considerations, such as ensuring continuity of agency operations, protecting proprietary data, protecting national security information, and ensuring accuracy and reliability of information.

(c) Guidelines and a definition of responsibilities for implementing the Privacy Act are described in the Office of Management and Budget (OMB) Circular No. A–108, dated July 1, 1975, and its supplements.

§ 201–6.103 Interagency services.

Special considerations and responsibilities apply in those instances in which one agency (the user agency) makes use of services or equipment provided, operated, managed, or administered by another (the provider agency) in the course of maintaining or operating systems of records. These instances include services obtained through sharing and the Federal Data Processing Centers (see Part 201–31.)

§ 201–6.103–1 User agency responsibilities.

A user agency shall—

(a) Make all reports and notices required under OMB Circular No. A–108 and supplements;

(b) Determine its data confidentiality and security requirements before storing, processing, or transmitting systems of records at a provider agency's facility;

(c) Include in its screening of ADP and telecommunications services and equipment resources an examination of the ability of each (provider agency) resource to meet user agency's data confidentiality and security requirements (specifically, the adequacy of available technical, administrative, and physical safeguards to counter anticipated threats and hazards must be evaluated);

(d) Satisfy itself that the rules of conduct governing the activities of personnel of the provider agency are commensurate with user agency's data confidentiality and security requirements;

(e) Obtain services from only those provider agencies that fully meet the user agency's data confidentiality and security requirements;

(f) Recognize that the records the user agency transmits, stores, or processes at the facility of a provider agency will be considered to be maintained by the user agency; and

(g) Establish written rules governing the disclosure by a provider agency of records considered to be maintained by the user agency.

§ 201–6.103–2 Provider agency responsibilities.

A provider agency shall—

(a) As specified in § 201–6.102(b), develop rules of conduct for personnel involved in the design, development, operation, or maintenance of equipment, systems, or services used to store, process, or transmit systems of records;

(b) In accordance with § 201–6.102(b), undertake a continuing program of review of its operations to ensure that threats and hazards to data confidentiality and security are properly identified and that appropriate safeguards are implemented;

(c) Make available rules of conduct and information on safeguards to user agencies;

(d) Refrain from disclosing any records stored, processed, or transmitted for a user agency except to that agency or under written rules established and provided by that user agency; and

(e) Make known to user agencies changes in its perception of threats and hazards to data confidentiality and security or any changes in the safeguards implemented to protect against those threats and hazards. User agencies may use information on such changes to reevaluate their usage of the provider agency's services or equipment.

§ 201-6.104 Implementation in contracts.

Contract clauses are prescribed in Part 201-32 for use when an agency contracts for the design, development, operation, or maintenance of a system of records on individuals to accomplish an agency function. See also FAR Subpart 24.1.

Subpart 201-6.2—Listening-in or Recording of Telephone Conversations

§ 201-6.201 Applicability.

This subpart applies to Federal agencies as defined in § 201-2.001.

§ 201-6.202 General.

(a) Federal agencies may listen-in or record telephone conversations only under limited circumstances. This Subpart 201-6.2 describes the circumstances and prescribes policies that limit the practice within the Federal government.

(b) The provisions of the subpart do not apply to telecommunications monitoring conducted in accordance with Executive Order 12036 dated January 24, 1978 (3 CFR). Nothing in this regulation shall be construed as authorization for the listening-in or recording of any telephone conversations for the purpose of committing any criminal or tortious act in violation of the Constitution or the laws of the United States.

§ 201-6.202-1 Nonconsensual listening-in or recording.

Nonconsensual listening-in or recording of telephone conversations shall be authorized and handled in accordance with the requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

§ 201-6.202-2 Consensual listening-in or recording.

Consensual listening-in or recording of telephone conversations on the Federal Telecommunications System (FTS) or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, section 201(a) (1) and (3) (40 U.S.C. 481(a) (1) and (3)), and implementing regulations thereof is prohibited except under the following conditions:

(a) When performed for law enforcement purposes in accordance with procedures established by the agency head, as required by the Attorney General's Guidelines for Administration of the Omnibus Crime Control and Safe Streets Act of 1968, and in accordance with procedures established by the Attorney General.

(b) When performed for counter-intelligence purposes and approved by the Attorney General or the Attorney General's designee.

(c) When performed by any Federal employee for public safety purposes and when documented by a written determination of the agency head or the designee citing the public safety needs. The determination must identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of these practices are police and fire department operations, air traffic safety control, and air/sea rescue operations.

(d) When performed by a handicapped employee, provided a physician has certified (and the head of the agency or designee concurs) that the employee is physically handicapped and the head of the agency or designee determines that the use of a listening-in or recording device is required to fully perform the duties of the official position description. Equipment shall be for the exclusive use of the handicapped employee. The records of any interceptions by handicapped employees shall be used, safeguarded, and destroyed in accordance with appropriate agency records management and disposition systems.

(e) When performed by any Federal agency for service monitoring but only after analysis of alternatives and a determination by the agency head or the agency head's designee that monitoring is required to effectively perform the agency mission. Strict controls must be established and adhered to for this type of monitoring. (See § 201-6.203 on agency responsibilities for minimal procedures.)

(f) When performed by any Federal employee with the consent of all parties for each specific instance. This includes telephone conferences, secretarial recording, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege. The agency head or the agency head's designee shall be informed of this capability for listening-in or recording telephone conversations.

§ 201-6.203 Agency responsibilities.

Each agency shall ensure that:

(a) All listening-in or recording of telephone conversations as described in § 201-6.202-2(c), (d), or (e) shall have a written determination approved by the agency head or the agency head's designee before operations commence.

(b) Service personnel who monitor listening-in or recording devices under § 201-6.202-2(e) shall be designated in writing. They shall be provided with written policies covering telephone conversation monitoring. These policies shall contain at a minimum the following instructions:

(1) No telephone call shall be monitored unless the Federal agency has taken continuous positive action to inform the callers of the monitoring.

(2) No data identifying the caller shall be recorded by the monitoring party.

(3) The number of calls to be monitored shall be kept to the minimum necessary to compose a statistically valid sample.

(4) Agencies using telephone instruments that are subject to being monitored shall conspicuously label them with a statement to that effect.

(5) Since no identifying data of the calling party will be recorded, information obtained by the monitoring shall not be used against the calling party.

(c) Current copies and subsequent changes of agency documentation, determinations, policies, and procedures supporting operations under § 201-6.202-2 (c), (d), or (e) shall be forwarded before the operational date to the General Services Administration (KMPP), Washington, DC 20405. Specific telephones shall be identified in the documentation and/or determination to prevent any possible abuse of the authority.

(d) Procedures for monitoring performed under § 201-6.202(a) (law enforcement) shall contain at a minimum—

(1) The identity of an agency official who is authorized to approve the actions in advance;

(2) An emergency procedure for use when advanced approval is not possible;

(3) Adequate documentation on all actions taken;

(4) Records administration and dissemination procedures; and

(5) Reporting requirements.

(e) Those requests that are required to be submitted to GSA for review shall be accompanied by a "determination" as defined in § 201-6.001.

(f) A program is established to reevaluate at least every 2 years the

need for each determination authorizing listening-in or recording of telephone conversations.

§ 201-6.204 GSA responsibilities.

(a) General Services Administration (KMPP), Washington, DC 20405, will be accountable for information and determinations concerning the use of listening-in or recording of telephone conversations in the Federal Government as requested under § 201-6.202- 2(c), (d), or (e).

(b) GSA will periodically review the listening-in programs within the agencies to ensure that agencies are complying with the intent of this Subpart 201-6.2.

(c) GSA will provide assistance to agencies in determining what communications devices and practices fall within the listening-in or recording category; i.e., those that have the capacity to listen-in, monitor, or intercept telephone conversations. GSA will also help develop administrative alternatives to the listening-in or recording of telephone conversations. Requests for assistance shall be addressed to: General Services Administration (KJ), Washington, DC 20405.

(d) GSA will take appropriate steps to obtain compliance with this regulation if an agency has not documented its devices in accordance with this Subpart 201-6.2.

§ 201-6.205 Use of line identification equipment.

Line identification equipment may be installed in FTS telephone facilities to assist Federal law enforcement agencies to investigate threatening telephone calls, bomb threats, and other criminal activities. No invasion of privacy is involved, and the use of this equipment does not violate the Privacy Act of 1974 or any Federal or State wiretap laws; e.g., Title III of the Omnibus Crime Control and Safe Streets Act of 1968. Information and assistance may be obtained from General Services Administration (KJ), Washington, DC 20405.

PART 201-7—SECURITY OF INFORMATION RESOURCE SYSTEMS

Sec.

201-7.000 Scope of part.
201-7.001 Definitions.

Subpart 201-7.1—Security Management

201-7.101 Policy.
201-7.102 Agency security responsibilities.
201-7.103 Security program elements.
201-7.103-1 Identification of sensitive systems and facilities.
201-7.103-2 Risk analysis.
201-7.103-3 Administrative, physical, and technical aspects.
201-7.103-4 Privacy considerations.
201-7.104 Security program objectives.
201-7.105 Security specifications.
201-7.106 Certification of conformance to security specifications.
201-7.107 Security audit or evaluation.

Subpart 201-7.2—Environmental and Physical Security of Data Processing Facilities

201-7.201 Facility environment.
201-7.202 Firesafety.
201-7.203 Contingency planning.
201-7.204 Security program for ADP facilities.
201-7.205 Physical security for ADP facilities.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-7.000 Scope of part.

This part prescribes policies and procedures for the security and protection of automatic data processing (ADP) and telecommunication systems and facilities. (See also Part 201-6, Protection of Personal Privacy.)

§ 201-7.001 Definitions.

"Agency controls, as used in Part 201-7" means those administrative and personnel measures used in conjunction with ADP administrative, technical, and physical security measures to achieve adequate comprehensive security.

"Security specifications, as used in Part 201-7" means a detailed description of the safeguards required to protect a sensitive computer application or telecommunication system.

"Sensitive application systems, as used in Part 201-7" means those ADP and telecommunication systems that require a degree of protection. The protection is required because these systems process sensitive data; the risk of loss or harm that could result from data disclosure, modification, or destruction is substantial; or the improper operation of the software or equipment related to the application system would have a serious effect on the ability of the agency to function. Examples of sensitive applications systems are (a) automated systems with little or no human intervention; e.g., check-issuing systems; (b) systems that process privileged information; e.g., proprietary data and economic forecasts; (c) systems that process personal information subject to the Privacy Act of 1974; and (d) systems where the loss or harm would be such that the organization could not effectively perform its mission and would have a substantially adverse effect on the Nation.

"Sensitive data, as used in Part 201-7" means data that require a degree of protection due to the risk and magnitude of loss or harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the data.

Subpart 201-7.1—Security Management

§ 201-7.101 Policy.

Federal agencies shall ensure that an adequate level of security is provided for all ADP and telecommunication systems and services, including those provided by contractors. An adequate security program shall be established to ensure automated information system integrity; i.e., a security program that (a) ensures that under all conditions sensitive data is safeguarded from disclosure and protected from unauthorized modification or destruction, (b) provides for operational reliability of the ADP and telecommunication systems, and (c) provides asset integrity for prevention of loss from natural hazards, fire, etc.

§ 201-7.102 Agency security responsibilities.

Each agency shall establish an agency security program that clearly delineates the responsibility for security agencywide. The agency head shall establish policies and procedures and assign responsibility for development, implementation, and operation of the agency's ADP and telecommunication security program. This responsibility applies to work performed internally or by contract.

(a) *Personnel.* The agency security program shall include policies and procedures for the screening and clearance of all persons involved in the design, operation, or maintenance of ADP or telecommunication systems. The level of screening required will vary from minimal checks to full background investigations commensurate with the sensitivity of the data handled and the risk and magnitude of loss or harm that could be caused by the individual. Policies shall be consistent with policies issued by the Office of Personnel Management (see Federal Personnel Manual (FPM) 732-4.1).

(b) *Facility security officer.* Each ADP and telecommunication system location shall have a designated security person responsible for the implementation, operation, and testing of the agency security program for that installation, including the adequacy of the security training of personnel involved.

(c) *Security evaluations.* The agency security program shall include procedures for conducting periodic (at least once every 3 years) audits or

evaluations of the adequacy of the security safeguards of each sensitive application. Audits or evaluations shall be conducted on applications that process personal, proprietary, or other sensitive data or that have a high potential for financial loss; e.g., an automated decision making application. They shall be conducted by persons independent of the facility users and facility management.

§ 201-7.103 Security program elements.

The agency security program shall contain all of the elements necessary to ensure an adequate level of security for all agency data, whether processed by the agency, other Government agencies, or commercially. The program shall be consistent with policies, procedures, and standards issued by OMB, GSA, the Department of Commerce, and the Office of Personnel Management. (Transmittal Memorandum No. 1 to Office of Management and Budget (OMB) Circular No. A-71, July 27, 1978, addresses security of Federal automated information systems. See also the National Bureau of Standards (NBS) publication FIPS PUB 73, Guidelines for Security of Computer Applications, June 1980.) Where national security information or cryptologic systems are involved, the provisions of Executive Order 12065, dated June 28, 1978 (3 CFR), other applicable national security issuances, and the agency implementations shall also apply.

§ 201-7.103-1 Identification of sensitive systems and facilities.

A review of ADP and telecommunication facilities and systems is necessary to identify sensitive applications. The risks (threats and hazards) shall be identified for each facility to determine the level of security required.

§ 201-7.103-2 Risk analysis.

(a) The agency shall perform a risk analysis for each ADP and telecommunications facility to provide an understanding of the probable losses and the effect of those losses (for example, what is the probability of loss of a tape or microfilm library and what is the economic or other consequence of that loss?). Expected losses should be estimated in dollars or other significant indicators, such as loss of data affecting vital programs. The analysis shall be performed before the approval of design specifications for new installations or whenever there is a significant change to the physical facility or to the hardware or software. The analysis shall be reviewed and updated whenever changes affecting the degree of protection occur. In any event, the interval between reviews shall not exceed 5 years. Each risk analysis shall be maintained for evaluation and audit purposes. These should be protected to the greatest extent practicable under law. Where national security systems are involved, appropriate classification and declassification markings shall be applied to the risk analysis package. These risk analyses are the basis for determining the type and scope of security measures required at each location. The National Bureau of Standards (NBS) publication, FIPS PUB 65, Guideline for Automatic Data Processing Risk Analysis, provides guidance on risk analysis.

(b) The analyses should include but not necessarily be limited to the following factors:

(1) Physical destruction or loss of data and program files;

(2) Impact of loss, destruction, or alteration of data on systems or programs;

(3) Theft or disclosure of information;

(4) Misuse of ADP system (fraud, vandalism, etc.);

(5) Delay or prevention of ADP operation; and

(6) Reliability of ADPE and utilities.

§ 201-7.103-3 Administrative, physical, and technical aspects.

Administrative, physical, and technical controls shall be developed to ensure attainment of security objectives. These controls encompass a continuous program of system and application security. They should be compatible with other practices, such as cost accounting and management oversight. Included are—

(a) Organizational controls; e.g., those that have the potential to reduce damage or loss to the agency through concentration or distribution of functions;

(b) Media and logistic controls; e.g., those used in ADP operations to protect data during physical handling; and

(c) Accountability controls; e.g., those that identify specific individuals at any time an action is taken that may have an effect on the data, application, or physical installation.

§ 201-7.103-4 Privacy considerations.

ADP and telecommunication system security considerations related to implementation of the Privacy Act of 1974 (5 U.S.C. 552a) are contained in Subpart 201-6.1. National Bureau of Standards (NBS) publication FIPS PUB 41, provides further guidance.

§ 201-7.104 Security program objectives.

The security program requires continuing day-to-day attention. The following program objectives need to be considered:

(a) *Reduction of sensitive facilities.* All locations need to be designed to safeguard the equipment and data against varying degrees of projected threats and hazards. Although all facilities must provide protection under varying circumstances, it may be prudent to move a sensitive data application to a system that provides adequate protection rather than spend enormous sums to upgrade security.

(b) *Improvement of security at existing facilities.* Security may be improved at existing facilities by either upgrading the physical security at the facility and/or by strengthening the administrative security practices. Strengthening administrative security, by applying sound management practices, can often be effective in minimizing losses and limiting alteration costs. Actions such as closing and locking doors, maintaining logs, verifying signatures, inspecting fire equipment, replacing air filters, and verifying emergency procedures are important continuing considerations. Security must be a daily concern that is given priority attention.

(c) *Contingency plans.* Plans should be developed to provide continuity of data processing support should normal operations be interrupted. Alternate facilities are essential for systems that process sensitive data applications. The alternate facility should have sufficient capacity to run its own sensitive data applications plus the sensitive applications of the downed system. The backup capability may reside in one or more systems or facilities but should be located so that operating personnel, programs, data, paper, forms, etc., can be made available on short notice. Agreements for use of the backup (alternate) facility should be made in advance so that sensitive data applications are operated with minimum interruption. Plans should be reviewed and tested at periodic intervals.

§ 201-7.105 Security specifications.

(a) The agency security program shall include a management control process to develop security specifications for new sensitive applications or modifications of sensitive applications. The development of a security specification consists of the identification of the sensitive application, a list of potential threats and hazards, and a description of the

measures needed to protect the application.

(b) The security program should include procedures that ensure that security specifications are developed to meet the requirements of those responsible for the security of the various application systems.

(c) The security program must include procedures requiring the certification of each system after completion of the system acceptance tests and before operational use of that system. This action certifies that (1) the system meets the documented and approved system security specifications, (2) the results of the system test demonstrate adequacy of application security provisions, and (3) all applicable Federal policies, regulations, and standards are met.

(d) The security program shall establish requirements and responsibilities for the design, system test, certification of system test, and certification of security specifications.

§ 201-7.106 Certification of conformance to security specifications.

(a) New or modified sensitive application systems shall be certified in accordance with agency procedures to ensure conformance with the security specifications before operation. Contractor- or other agency-operated systems or services shall also be certified.

(b) The security of existing sensitive systems shall be modified as appropriate to the level of security as specified in the agency security program for new or revised systems.

(c) The agency security program shall establish policies, criteria, and timetables for periodic recertification of all sensitive application systems, including those operated at contractor locations. The recertification timetable shall be based on the sensitivity of the information processed and the risk involved, but shall be conducted at least every 3 years.

§ 201-7.107 Security audit or evaluation.

(a) Agencies shall establish a program for conducting periodic audits or evaluations for evaluating and recertifying the adequacy of the security safeguards of each operational sensitive application.

(b) Audits shall be conducted by personnel other than those responsible for the operation and development of the system.

(c) The audit or evaluation shall include an examination of the data sensitivity; a verification and validation of the adequacy of physical, administrative, financial, and technical controls; and a review of the adequacy of security administration. Time intervals for audits or evaluations will be determined by the agency, based on the sensitivity of the operation, but at least every 3 years. All ADP and telecommunication facilities shall be included in this audit and evaluation.

Subpart 201-7.2—Environmental and Physical Security of Data Processing Facilities

§ 201-7.201 Facility environment.

An ADP facility environment conducive to both the protection of the Government's investment in ADP resources and the effective performance of the ADP function is essential. Care should be exercised in the selection of the ADP facility location to ensure the protection of supporting utilities and the minimization of natural disaster probabilities.

(a) *Temperature and humidity.* (1) Wherever possible, manufacturers' specifications for data processing equipment and Federal energy conservation considerations shall be used to determine the optimum temperature and humidity ranges for the computer room. The ADPE should be operated within those limits. To prevent excessive temperature and humidity fluctuation, all doors to the computer room shall be kept closed as appropriate.

(2) An adequate warning system should be installed and maintained to warn of near-limit conditions so that prompt action can be taken to prevent equipment damage. Recording instruments (24-hour and 7-day) should also be located and installed to provide a true record of temperature and humidity. The recorders should be located where they will monitor the air leaving the ADPE area. The recorders should be checked frequently for accuracy. Only the building manager, the ADP facility manager, or another official controlling or operating the building should be permitted to regulate the computer room environmental controls.

(b) *Lighting and electrical service.* Adequate lighting of the computer room should be provided and maintained, taking into account Federal conservation considerations. An uninterruptible power source may be needed to support the system. Voltage regulators or other electronic means may be necessary to prevent serious fluctuations in current. Emergency lighting shall be provided as necessary to ensure safe exit. Periodic checks should be made of the emergency lighting and the auxiliary power to ensure performance operability. The minimum acceptable level of illumination is 40 foot-candles as measured 40 inches above the floor at any point in the room.

(c) *Cleanliness.* (1) A routine cleaning schedule should be established and followed. Personnel assigned to clean the computer room should be permitted to do so only after receiving proper training in the cleaning of these areas. An authorized representative of the ADP facility shall be present during the cleaning operations.

(2) Noncombustible wastebaskets with self-closing or tight-fitting covers should be provided in the computer room. Burn bags required for security purposes should be enclosed in metal bulk-refuse containers with self-closing tops if the room is sufficiently secure; otherwise, the burn bags should be kept in safes.

(3) Contributors to dust or lint conditions such as outer coats and coat racks should not be permitted in the computer room. Venetian blinds, throw rugs, etc., that accumulate dust and static electricity should not be used in computer rooms.

(4) Air conditioning filters should be checked and cleaned or replaced frequently.

(5) Floors should be kept polished and, if necessary, buffed to a hard finish. Waxes which powder or flake and steel wool buffing pads should not be used. Care should be exercised when damp-mopping or waxing to avoid seepage of liquids through the joints of raised floors.

(6) Carpeted areas should be vacuumed frequently to prevent accumulation of dust. Antistatic carpeting or spray should be used to prevent the buildup and discharge of static electricity.

(d) *Personnel.* (1) Only those authorized persons as defined by the agency security program should be permitted in the ADP facility. Notice of this restriction should be posted at each entrance. Authorized personnel should be positively identified through the use of local access control procedures. Personnel should be well trained in these facility, environment, and security regulations and procedures.

(2) Smoking, eating, and drinking shall not be permitted in the computer room. Signs stating these restrictions should be posted at each entrance.

(3) Appliances and equipment not essential to the functioning of the system are prohibited in the ADP facility. Examples of these items are electric razors, coffee pots, hot water pots, and hotplates.

(e) *Precautionary measures.* False ceilings that conceal steam and water pipes shall be checked regularly for discoloration or other indication of a leak in the pipes. Any irregularities should be reported immediately to the building manager or other official controlling or operating the building so that prompt remedial action may be taken. Work scheduled for the ceiling area, whether from above or below; shall be a coordinated effort to provide maximum safety for personnel and equipment and to minimize interruption of operations. All other situations that are suspect as being potentially damaging to life or property shall be reported to the appropriate authority and liaison maintained until corrective action has been taken. Plastic sheets should be readily available to cover at least the central processing units (CPU) and those peripheral units susceptible to water damage. Equipment that has been exposed to water should not be activated until completely dry.

§ 201-7.202 Firesafety.

Guidelines concerning firesafety practices are provided in FPMR § 101-20.109, in the National Fire Prevention and Control Administration's Handbook RP-1, Standard Practice for the Fire Protection of Essential Electronic Equipment Operations, and in the NFPA Fire Protection Handbook, Section 11 (Special Fire Protection and Prevention Problems), Chapter 1 (Electronic Computer/Data Processing Equipment). For additional information, refer to the "National Fire Codes: A compilation of Codes, Standards, Recommended Practices, and Manuals" (published by the National Fire Protection Association, Quincy, Massachusetts). Employees should receive periodic training regarding emergency actions. Training should include power shutdown and startup procedures, use of emergency power, the fire detection system, use of fire extinguishers, building evacuation, use of alarms, etc.

(a) *Fire prevention—master control switches.* Master control switches that shut off all power to the computers and peripheral equipment should be so installed as to override all other electrical controls used during normal computer operations. Facilities with air-conditioning systems not designed for smoke removal may include their air-conditioning system on the same master switches. These switches should be located near each normally used entrance to the computer room and should be conspicuously labeled and adequately protected to prevent accidental shutoff. Master control switches for systems that process sensitive applications should be equipped to require a sequential shutdown routine.

(b) *Portable firefighting equipment.* Agencies shall ensure that a sufficient number of fire extinguishers are available in the ADP facility. Each fire extinguisher shall be prominently displayed in an unblocked, easily accessible area, so that no person in the area will have to travel more than 50 feet to obtain a fire extinguisher. Only carbon dioxide fire extinguishers shall be used on electrical fires; no other Class C (electrical nonconducting) extinguishing agents should be used. Fire extinguishers using water should be used on fires involving ordinary combustible materials, such as wood, paper, cloth, and plastics. Extinguishers containing water shall not be used on fires involving electrical equipment because this use can result in injury or death. All fire extinguishers shall be regularly inspected and properly maintained to ensure that they are in good working order. The number of types of fire extinguishers available in the ADP facility will be in accordance with section 704 of the National Fire Prevention and Control Administration's Handbook RP-1.

(c) *Smoke detection.* Automatic smoke detection equipment capable of early warning detection shall be installed in all areas as required in RP-1 and NFPA No. 72E, Automatic Fire Detectors.

§ 201-7.203 Contingency planning.

Contingency plans should be developed to deal with events that could prevent normal ADP operations and interfere with the accomplishment of an agency's mission. A contingency plan should, at a minimum, address the following elements:

(a) The appropriate response to a fire, flood, civil disorder, natural disaster, or bomb threat, to protect lives, limit damage, and minimize the impact on ADP operations.

(b) The development of backup procedures to ensure that essential ADP operational tasks can be conducted after disruption to the primary ADP facility. Arrangements should be made for a backup facility (including the needed files, programs, paper stocks and preprinted forms, etc.) to operate the essential systems in the event of a total failure.

(c) Recovery procedures to permit rapid restoration of an ADP facility following physical destruction, major damage, or loss of data. To the extent possible, contingency plans should be tested on a recurring basis and modified as changes in the ADP facility workload dictate. Critical applications should be operated on the backup system to ensure that it can properly process this workload. Additional information on contingency planning is contained in FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management and FIPS PUB 87, Guidelines for ADP Contingency Planning.

§ 201-7.204 Security program for ADP facilities.

(a) Agencies are required to organize and maintain an ADP system security program to ensure the protection, confidentiality, and integrity of the Government's investment in the ADP system, including associated ADPE, data, computer media, and software. (See Subpart 201-7.1 for security management provisions.) Agencies' internal directives and procedures for the physical security of computer facilities should consider the standards and guidelines that appear in the following Department of Commerce publications:

(1) FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management;

(2) FIPS PUB 39, Glossary for Computers Systems Security;

(3) FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974;

(4) FIPS PUB 46, Data Encryption Standard;

(5) FIPS PUB 48, Guidelines on Evaluation of Techniques for Automated Personnel Identification;

(6) FIPS PUB 65, Guideline for Automatic Data Processing Risk Analyses;

(7) FIPS PUB 73, Guidelines for Security of Computer Applications;

(8) FIPS PUB 83, Guideline on User Authentication Techniques for Computer Network Access Control;

(9) FIPS PUB 87, Guidelines for ADP Contingency Planning; and

(10) FIPS PUB 102, Guideline for Computer Security Certification and Accreditation.

(b) NBS Publications List 91 outlines a number of additional NBS computer security publications.

§ 201-7.205 Physical security for ADP facilities.

Agencies shall provide physical security for their ADP facilities at levels consistent with the agency security program. Emergency requirements and operating procedures shall be considered when planning physical protective measures. The Office of Federal Protection and Safety (mailing address: General Services

Administration (PS), Washington, DC 20405) can furnish assistance regarding the availability and use of security hardware and alarm systems.

PART 201-8—IMPLEMENTATION AND USE OF FEDERAL STANDARDS

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201-8.105-10 FIPS PUB 27, Take-up Reels for One-Inch Perforated Tape for Information Interchange.
201-8.105-11 FIPS PUB 32-1, Optical Character Recognition Character Sets.
201-8.105-12 FIPS PUB 33, Character Set for Handprinting.
201-8.105-13 FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.
201-8.105-14 FIPS PUB 36, Graphic Representation of the Control Characters of ASCII (FIPS PUB 1-1).
201-8.105-15 FIPS PUB 46, Data Encryption Standard (DES).
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201-8.105-17 FIPS PUB 51, Magnetic Tape Cassettes for Information Interchange (3.810 mm (0.150 in) Tape at 32 BPMM (800 BPI), PE).
201-8.105-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI) Phase Encoded.
201-8.105-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.
201-8.105-20 FIPS PUB 60-2, Input/Output (I/O) Channel Interface.
201-8.105-21 FIPS PUB 61-1, Channel Level Power Control Interface.
201-8.105-22 FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.
201-8.105-23 FIPS PUB 63-1, Operational Specifications for Variable Block, Rotating Mass Storage Subsystems.
201-8.105-24 FIPS PUB 81, Data Encryption Standard (DES) Modes of Operations.
201-8.105-25—201-8.105-27 [Reserved]
201-8.105-28 FIPS PUB 84, Microfilm Readers.
201-8.105-29 FIPS PUB 85, Optical Character Recognition (OCR) Inks.
201-8.105-30 FIPS PUB 86, Additional Controls for Use With American National Standard Code for Information Interchange.
201-8.105-31 FIPS PUB 89, Federal Standard for Optical Character Recognition (OCR) Character Positioning.
201-8.105-32 FIPS PUB 91, Federal Standard for Magnetic Tape Cassettes for Information Interchange, Dual Track, Complementary Return-to-Bias (CRB), Four-States Recording on 3.81 mm (0.150 in) Tape.
201-8.105-33 FIPS PUB 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track 6.30 mm (0.250 in), 63 BPMM (1600 BPI), Phase Encoded.
201-8.105-34 FIPS PUB 97, Operational Specifications for Fixed Block, Rotating Mass Storage Subsystems.
201-8.106 Software standards other than programing languages requirement statements.
201-8.106-1 [Reserved]
201-8.106-2 FIPS PUB 24, Flowchart Symbols and Their Usage in Information Processing.
201-8.106-3 FIPS PUB 30, Software Summary for Describing Computer Programs and Automated Data Systems.
201-8.106-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.
201-8.106-5 FIPS PUB 79, Magnetic Tape Labels and File Structure for Information Interchange.
201-8.106-6 FIPS PUB 98, Message Format for Computer Based Message Systems.
201-8.107 Federal Information Processing Standards (FIPS) programing languages requirement statements.
201-8.107-1 FIPS PUB 21-1, Federal Standard COBOL.
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201-8.107-2 FIPS PUB 68, Federal Standard Minimal BASIC.
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201-8.108 Development or acquisition of application programs.
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201-8.110 Data standards requirement statements.
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201-8.111 Applications standards requirement statements.
201-8.112 Federal Telecommunication Standards (FED-STD) requirement statements.
201-8.112-1 FED-STD 1002, Time and Frequency Reference Information in Telecommunication Systems.
201-8.112-2—201-8.112-3 [Reserved]
201-8.112-4 FED-STD 1005, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems.
201-8.112-5 FED-STD 1006, Coding and Modulation Requirements for Duplex 4800 Bit/Second Modems.
201-8.112-6 FED-STD 1007, Coding and Modulation Requirements for Duplex 9600 Bit/Second Modems.
201-8.112-7 FED-STD 1008, Coding and Modulation Requirements for Duplex 600 and 1200 Bit/Second Modems.
201-8.112-8—201-8.112-10 [Reserved]
201-8.112-11 FED-STD 1020A, Electrical Characteristics of Balanced Voltage Digital Interface Circuits.
201-8.112-12 [Reserved]
201-8.112-13 FED-STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.
201-8.112-14 FED-STD 1030A, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.
201-8.112-15 [Reserved]
201-8.112-16 FED-STD 1061, Group 2 Facsimile Apparatus for Document Transmission.
201-8.112-17 FED-STD 1062, Group 3 Facsimile Apparatus for Document Transmission.
201-8.112-18 FED-STD 1063, Telecommunications: Procedures for Document Facsimile Transmission.
201-8.113 Joint FIPS/FED-STD requirement statements.
201-8.113-1 FIPS PUB 37/FED-STD 1001, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.
201-8.113-2 FIPS PUB 16-1/FED-STD 1010, Bit Sequencing of the Code for Information Interchange in Serial-By-Bit Data Transmission.
201-8.113-3 FIPS PUB 17-1/FED-STD 1011, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the Code for Information Interchange.
201-8.113-4 FIPS PUB 18-1/FED-STD 1012, Character Structure and Character Parity Sense for Parallel-By-Bit Data Communication in the Code for Information Interchange.

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201-8.113-5 FIPS PUB 22-1/FED-STD 1013, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment.
201-8.113-6 FIPS PUB 71/FED-STD 1003A, Advanced Data Communication Control Procedures (ADCCP).
201-8.113-7 FIPS PUB 100/FED-STD 1041, Interface between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communication Networks.

Subpart 201-8.2—Federal Records Management Standards

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-8.000 Scope of part.

This part implements ADP, telecommunication, and records management standards and prescribes policies and procedures for their use.

Subpart 201-8.1—Federal ADP and Telecommunication Standards

§ 201-8.100 Scope of subpart.

This subpart provides for implementation of Federal Information Processing Standards (FIPS), Federal Telecommunication Standards (FED-STDS), and joint FIPS/FED-STDS. Descriptions of Federal standards which are prescribed by the General Services Administration (GSA) in this subpart together with "requirement statements" for use in requirement documents including solicitations are provided for agency use. Application to the acquisition process is covered.

§ 201-8.100-1 Standards handbook.

[Reserved, see ADP and Telecommunication Standards Index, FIRMR Subpart 201-36.13 for general standards information, contact GSA (KMPS), Washington, DC 20405.]

§ 201-8.101 Applicability.

Each Federal agency shall use Federal standards as provided in this Subpart 201-8.1 (see 40 U.S.C. 487(b)). Each agency shall determine the applicability of a particular standard to a particular requirement in accordance with the statements of that standard.

§ 201-8.101-1 Implementation and deviations.

(a) *Implementation.* Agencies shall implement Federal standards for the acquisition and use of automatic data processing and telecommunications equipment, services and related software as prescribed by this subpart.

(b) *Deviations.* Deviations to the implementation of standards as prescribed by this subpart shall be handled as provided in Subpart 201-1.4.

§ 201-8.101-2 Waiver to a Federal Information Processing Standard (FIPS).

Waiver procedures, together with exemption and waiver approval authority from the mandatory use of a specific FIPS, are contained in each FIPS. Criteria upon which to base exemptions and waiver approval is also included. For some standards, a waiver approval response from the Secretary of Commerce to an agency request for waiver is required before acquisition action can commence.

§ 201-8.101-3 Exception to a Federal Telecommunication Standard (FED-STD).

(a) Exceptions to the mandatory use of a FED-STD required by this Subpart 201-8.1 may be granted by GSA only upon submission of adequate justification to GSA. Circumstances under which exceptions may be granted include, but are not limited to, the following—

(1) The items to be acquired are replacements or augmentation components of an existing system or equipment, the operational integrity or utility of which would be decreased by introduction of components meeting Federal telecommunication standards; or

(2) The purchase is required under a public exigency, and the use of the applicable standards would result in a delay in obtaining agency requirements.

(b) When purchases are made under any of the following conditions, agencies may acquire nonstandard equipment without prior approval of, but with notification to GSA—

(1) The items are to be purchased in foreign markets for use by overseas activities of agencies;

(2) The items to be purchased are required for experimental or test and evaluation purposes; or

(3) Where otherwise authorized by law or treaty.

(c) Requests for exceptions, notifications, and requests for assistance should be addressed to the General Services Administration (KMP), Washington, DC 20405.

§ 201-8.102 Types of Federal standards.

Federal standards implemented in this subpart are categorized as Federal Information Processing Standards (FIPS), Federal Telecommunication Standards (FED-STDS), or as Joint Federal Information Processing and Federal Telecommunication Standards (FIPS/FED-STDS). Each of these standard types is described in detail below.

§ 201-8.102-1 Federal Information Processing Standards Publications (FIPS PUBS).

FIPS PUBS are official Federal Government publications relating to standards adopted and issued under the provisions of section 111 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 383, as amended (40 U.S.C. 759) and Executive Order 11717 dated May 9, 1973 (3 CFR). FIPS PUBS are issued by the National Bureau of Standards (NBS) and collectively constitute the Federal Information Processing Standards Register. As an aid in implementing this Subpart 201-8.1, all agencies should establish and maintain a register in accordance with FIPS PUB O, General Description of the Federal Information Processing Standards Register, November 1, 1968.

(a) Requests for FIPS PUBS should be sent to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone (703) 487-4650 or FTS, 487-4650.

(b) Requests for discount prices on quantity orders should be referred to the above address and telephone number.

(c) Requests for FIPS PUBS subscriptions should be sent to: Subscriptions, National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone (703) 487-4630 or FTS, 487-4630.

§ 201-8.102-2 Federal Telecommunication Standards (FED-STDS).

(a) FED-STDS are official Federal Government publications relating to standards adopted and issued under section 206 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 390, as amended (40 U.S.C. 487). These Federal publications are issued by GSA and collectively constitute the Federal Supply Class (FSC) of "Telecommunications" in the Federal Standards Index.

(b) Federal agencies may obtain one copy of each FED-STD free of charge. Copies are available to the public on a cost-reimbursable basis. Requests for these publications, specifying the FED-STD number, should be sent to: General Services Administration (WFRI), Washington, DC 20407, Telephone (202) 472-2205 or FTS, 472-2205.

§ 201-8.102-3 Joint Federal Information Processing Standards and Federal Telecommunication Standards (FIPS/FED-STDS).

Joint Federal Information Processing Standards and Federal Telecommunication Standards (FIPS/FED-STDS) are standards which are published as both FIPS PUBS and FED-

STDS within the authorities cited in §§ 201–8.102–1 and 201–8.102–2. Either the FIPS PUB or the FED–STD adequately addresses the joint applicability. These standards are available as discussed in § 201–8.102–1 and § 201–8.102–2. Statements regarding specific FIPS PUBS or FED–STDS which are joint FIPS/FED–STDS are set forth only in § 210–8.113.

§ 201–8.103 Categories of Federal standards.

The following categories of Federal standards are applicable to this subpart. For terms not defined, see the FIPS PUB 11–1, American National Standard Vocabulary for Information Processing, available as discussed in § 201–8.102–1 and the Military Communications System Standards, Terms, and Definitions (MIL–STD–188–120), available as discussed in § 201–8.102–2.

§ 201–8.103–1 Hardware standards.

"Hardware standards" is that category of standards which includes areas of standardization such as character recognition, interchange codes and media, transmission, interface, and keyboards.

§ 201–8.103–2 Software standards.

"Software standards" is that category of standards which includes areas of standardization such as programing languages, operating systems, operating procedures, and documentation.

§ 201–8.103–3 Application standards.

"Application standards" is that category of standards that includes areas of standardization, such as payroll, personnel, inventory, and accounting.

§ 201–8.103–4 Data standards.

"Data standards" is that category of standards which includes areas of standardization such as data elements, data formats, and data representations and data codes.

§ 201–8.104 Application of Standards to requirements.

(a) FIPS PUBS and FED–STDS, unless waived or excepted, shall be applied to ADP and telecommunication acquisitions. Standard terminology for use in requirements documents, including solicitations for offers, is provided for each standard implemented by GSA in the subsections of this Subpart 201–8.1 entitled with FIPS PUB, FED–STD, or joint FIPS/FED–STD numbers.

(b) If the requirements for compliance with a standard are changed after release of a solicitation; e.g., approval of a delayed request for a waiver, the agency responsible for the contracting action shall determine whether a substantial change in the Government's requirements has occurred. Action in accordance with FAR 15.606 shall be taken, including resolicitation if appropriate, based on the determination.

§ 201–8.105 Hardware standards requirement statements.

This section provides requirement statements for use in requirements documents, including solicitations for FIPS PUBS which have been implemented by GSA in the area of standardization listed in § 201–8.103–1.

§ 201–8.105–1 FIPS PUB 1–1, Code for Information Interchange.

(a) FIPS PUB 1–1 promulgates the American National Standard Code for Information Interchange (ASCII) and specifies the code and character set for use in Federal information processing systems, communications systems, and associated equipment.

(b) The Standard terminology for use in requirements documents, including solicitations, is:

ASCII System Requirements (APR 84 FIRMR)

The system, upon receiving a hardware or software command, must accept data on magnetic tape, paper tape, or any other input media covered by an approved Federal Information Processing Standards Publication (FIPS PUB) in ASCII code and collating sequence prescribed in FIPS PUB 1–1 and in the format prescribed in FIPS PUBS 2, 3–1, 25, 50, or other applicable FIPS PUBS. Such data may be translated, if necessary, into a form that the proposed equipment can internally process, provided that, upon receiving a hardware or software command, the proposed equipment can produce the processed data on magnetic tape, paper tape, and other output media in the ASCII code and collating sequence prescribed in FIPS PUB 1–1 and in the format prescribed in FIPS PUBS 2, 3–1, 25, 50, or other applicable FIPS PUBS.

(End of requirement statement)

§ 201–8.105–2 FIPS PUB 2, Perforated Tape Code for Information Interchange.

(a) FIPS PUB 2 specifies the representation of the ASCII code and format on perforated tape to be used in Federal information processing systems, communication systems, and associated equipment.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Punched Paper Tape Readers and Punches (APR 84 FIRMR)

Punched paper tape equipment must be capable of reading and punching in the prescribed ASCII code and format specified in FIPS PUBS 1–1 and 2.

(End of requirement statement)

§ 201–8.105–3 FIPS PUB 3–1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI).

(a) FIPS PUB 3–1 specifies the recorded characteristics of 9-track digital ½-inch-wide magnetic computer tape, including the data format for implementing the Federal Standard Code for Information Interchange at the recording density of 800 characters per inch (CPI).

(b) The standard terminology to be used in requirements documents, including solicitations, is:

9-Track Tape Equipment—800 CPI (APR 84 FIRMR)

All 9-track digital magnetic tape recording and reproducing equipments resulting from this requirement employing ½-inch-wide tape at the recording density of 800 characters per inch (CPI), including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 3–1.

(End of requirement statement)

§ 201–8.105–4 FIPS PUB 7, Implementation of the Code for Information Interchange and Related Media Standards.

(a) FIPS PUB 7 supplements FIPS PUBS 1–1, 2, and 3 and provides details concerning their implementation and applicability.

(b) A requirements statement is not applicable to this FIPS PUB.

§ 201–8.105–5 FIPS PUB 13, Rectangular Holes in 12-Row Punched Cards.

(a) FIPS PUB 13 specifies the size and location of rectangular holes in 12-row 3¼-inch-wide punched cards. The standard applies to card reading and punching equipment used in data processing, communications, and similar operations.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Punched Card Equipment—Cards (APR 84 FIRMR)

All punching or reading equipment utilizing 12-row 3¼-inch-wide punched cards used in data processing, communications, and similar operations must be capable of punching and reading rectangular holes of a size and location specified in FIPS PUB 13.

(End of requirement statement)

§ 201–8.105–6 FIPS PUB 14–1, Hollerith Punched Card Code.

(a) FIPS PUB 14–1 specifies the representation of the Code for Information Interchange, FIPS PUB 1–1, in 12-row 3¼-inch-wide, rectangular hole punched cards used in Federal information processing systems,

communication systems, and associated equipment.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Punched Card Equipment—Code (APR 84 FIRMR)

All punching or reading equipment utilizing 12-row 3¼-inch-wide rectangular hole punched cards used in data processing, communications, and similar operations must be capable of punching or reading the Code for Information Interchange, FIPS PUB 1–1, or one of the approved subsets of the Standard Code for Information Interchange, FIPS PUB 15, in the hole pattern specified in FIPS PUB 14–1 Hollerith Punch Card Code.

(End of requirement statement)

§ 201–8.105–7 FIPS PUB 15, Subsets of the Standard Code for Information Interchange.

(a) FIPS PUB 15 requires that all printers, display devices, punched card, and other data processing or communication equipment brought into the Federal inventory which utilize a character set less than that provided by the 128-character set of FIPS PUB 1–1 must conform to one of the three subsets provided in FIPS PUB 15.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Punched Card Equipment—Code Subsets (APR 84 FIRMR)

Printers; display devices; data acquisition, preparation, and transcription devices; data communication terminal devices; punched card equipment; and other data processing or communication equipment that may result from this requirement not requiring the full 128-character set of the Federal Code for Information Interchange, FIPS PUB 1–1, must conform to one of the approved character subsets of the Standard Code of Information Interchange, FIPS PUB 15. Printers of the "chain" or "train" or other replaceable symbol technology may also be provided with optional subsets having a different number of characters than those specified in FIPS PUB 15 in order to increase the printer's repertoire of symbols or the printer's speed as required for local use, provided the ability to interchange information by the selected character subset (FIPS PUB 15) is retained in the data processing system.

(End of requirement statement)

§ 201–8.105–8 FIPS PUB 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Encoded).

(a) FIPS PUB 25 specifies the recorded characteristics of 9-track digital ½-inch-wide magnetic computer tape, including the data format for implementing the Federal Standard Code for Information Interchange at the recording density of 1600 CPI.

(b) The standard terminology for use in requirements documents, including solicitations, is:

9-Track Tape Equipment—1600 CPI, PE (APR 84 FIRMR)

All 9-track digital magnetic tape recording and reproducing equipment resulting from this requirement and employing ½-inch-wide tape at the recording density of 1,600 characters per inch, phase encoded (CPI, PE), including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 25.

(End of requirement statement)

§ 201–8.105–9 FIPS PUB 26, One-Inch Perforated Paper Tape for Information Interchange.

(a) FIPS PUB 26 specifies the physical dimensions and tolerances of 1-inch-wide paper tape, including the size and location of the perforations used for recording information.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Perforated Paper Tape (APR 84 FIRMR)

All 1-inch-wide perforated paper tape and related 8-channel paper tape punch and reading equipment resulting from this requirement and utilized in Federal information processing systems, communication systems, and associated terminals employing perforated paper tape equipment shall provide the capability to accept and generate tapes in compliance with the requirements set forth in FIPS PUB 26.

(End of requirement statement)

§ 201–8.105–10 FIPS PUB 27, Take-up Reels for One-Inch Perforated Tape for Information Interchange.

(a) FIPS PUB 27 specifies the physical dimensions of paper tape takeup (or storage) reels with either fixed or separate flanges. The two types of reels specified differ in the size and shape of the drive hub, but both are intended for use with 1-inch perforated paper tape devices.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Takeup Reels (APR 84 FIRMR)

All 1-inch perforated tape takeup reels and related devices employing such reels, including paper tape readers, punches, and related tape handling equipment resulting from this requirement and used in Federal information processing systems and associated equipment employing such devices, shall provide the capability to accept one of the two types of reels specified in FIPS PUB 27.

(End of requirement statement)

§ 201–8.105–11 FIPS PUB 32–1, Optical Character Recognition Character Sets.

(a) FIPS PUB 32–1 provides the description, scope and identification for different character sets (OCR–A and OCR–B) to be used in the application of Optical Character Recognition (OCR) systems. This standard adopts, in whole or in part, American National Standard X3.17–1981, Character Set for Optical Character Recognition (OCR–A); American National Standard X3.49–1975, Character Set for Optical Character Recognition (OCR–B); and American National Standard X3.2–1970, Print Specifications for Magnetic Ink Character Recognition (MICR).

(b) FIPS PUB 32–1 includes only character shapes for OCR–A and OCR–B and certain print specifications for MICR. Print quality (print contrast ratio) and other considerations which may be required to ensure compatibility within or among systems must be specified elsewhere in the requirements document. (Also, see §§ 201–8.105–29 (FIPS PUB 85) and 201–8.105–31 (FIPS PUB 89).)

(c) The standard terminology for use in requirements documents, including soliciations, is:

OCR Equipment or Services (APR 84 FIRMR)

All applicable Optical Character Recognition (OCR) equipment or services resulting from this requirement must comply with the statements of FIPS PUB 32–1. Applicable OCR equipment includes data input devices such as typewriters, line printers, and CRT displays. Applicable services include data preparation and processing of information represented in OCR form.

(End of requirement statement)

§ 201–8.105–12 FIPS PUB 33, Character Set for Handprinting.

(a) FIPS PUB 33 announces the adoption of the American National Standard X3.45–1974, Character Set for Handprinting, as a Federal standard. The standard provides the description, scope, and application rules for a character set for handprinting.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Reading Handprinted Material (APR 84 FIRMR)

All applicable Optical Character Recognition (OCR) equipment or services which result from this requiremept and which are capable of reading handprinted material must comply with FIPS PUB 33. The applicable services include data preparation and processing of information represented in OCR form.

(End of requirement statement)

§ 201-8.105-13 FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.

(a) FIPS PUB 35 specifies methods of extending the 7-bit code of the Standard Code for Information Interchange (FIPS PUB 1-1/ASCII), remaining in a 7-bit environment or increasing to an 8-bit environment, building upon the structure of ASCII to describe various means of extending the control and graphic sets of code. FIPS PUB 35 describes techniques for constructing codes related to ASCII to allow application-dependent usage without preventing the interchangeability of the data, and also describes 8-bit codes for general information interchange in which ASCII is a subset.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Code Extension—7 or 8 Bits (APR 84 FIRMR)

All coded character sets offered as a result of this requirement which require control function and/or graphic symbols that are not included in the 128 characters of ASCII will be implemented through the use of the code extension methods and techniques as described in FIPS PUB 35.

(End of requirement statement)

§ 201-8.105-14 FIPS PUB 36, Graphic Representation of the Control Characters of ASCII (FIPS PUB 1-1).

(a) FIPS PUB 36 specifies graphical representation for the 34 characters of ASCII (FIPS PUB 1-1) for which a graphic representation is not indicated in FIPS PUB 1-1. Graphic representations are given for the 32 control functions of column 0 and 1 and for the characters "space" and "delete." Two forms of graphical representation for each of the 34 characters are provided: a pictorial symbol and a 2-letter alphanumeric code.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Graphic Representation—Control Characters (APR 84 FIRMR)

All applicable equipment that may result from this requirement that prints or displays graphic representations of any or all of the control characters of ASCII (FIPS PUB 1-1) or of the characters "space" or "delete" must comply with the requirements set forth in FIPS PUB 36. This standard also applies to equipment that prints these graphic representations on media such as perforated tape, punched cards, or listing.

(End of requirement statement)

§ 201-8.105-15 FIPS PUB 46, Data Encryption Standard (DES).

(a) FIPS PUB 46 specifies an algorithm to be implemented in computer or related data communication devices using hardware (not software) technology. This standard shall be used by Federal agencies for the cryptographic protection of computer data when—

(1) A department or agency decides that cryptographic protection is required; and

(2) The data are not classified according to the National Security Act of 1947, as amended; or the Atomic Energy Act of 1954, as amended.

(b) Federal agencies using cryptographic devices for protecting data classified according to either the National Security Act or the Atomic Energy Act can use these devices for protecting unclassified data in lieu of the standard.

(c) Technical specifications are included with FIPS PUB 46.

(d) The standard terminology for use in requirements documents, including solicitations, is:

Data Encryption (APR 84 FIRMR)

In the event that a data encryption requirement is specified elsewhere in this requirement, such encryption will be accomplished in accordance with FIPS PUB 46. Implementations of the standard embodied in products or services offered as a result of this requirement that are asserted to have an encryption capability in conformance with FIPS PUB 46 must have the capability validated by the National Bureau of Standards prior to being proposed. Arrangements for validation may be made with the Systems and Software Division, National Bureau of Standards, Institute for Computer Science and Technology, Gaithersburg, MD 20899.

(End of requirement statement)

(e) FED-STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard (§ 201-8.112-17), contains security requirements in telecommunications equipment and systems used by the U.S. Government when a need exists for encryption of unclassified information during transmission using the Data Encryption Standard (DES) algorithm described in FIPS PUB 46.

(f) The following documents provide additional information in this regard: FIPS PUB 31, Guidelines for ADP Physical Security and Risk Management; FIPS PUB 39, Glossary for Computer Systems Security; FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 65, Guidelines for ADP Risk Analysis; FIPS PUB 73, Guidelines for Security of Computer Applications; and FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

§ 201-8.105-16 FIPS PUB 50, Recorded Magnetic Tape for Information Interchange, 6250 CPI (246 CPMM), Group Coded Recording.

(a) FIPS PUB 50 specifies the recording characteristics of 9-track, ½-inch-wide (12.7 millimeters (mm)) magnetic computer tape, including the format for implementing the Standard Code for Information Interchange (FIPS PUB 1-1/ASCII) at the recording density of 6250 CPI (246 CPMM). FIPS PUB 50 adopts the technical specifications contained in American National Standard X3.54-1976, same title, with one exception as noted in the FIPS.

(b) The standard terminology to be used in requirements documents, including solicitations, is:

Recording Characteristics 9-Track, 6250 CPI Tape (APR 84 FIRMR)

All applicable digital magnetic tape recording and reproducing equipment which results from this requirement and employs ½-inch-wide (12.7 mm) magnetic computer tape at the recording density of 6250 characters per inch (246 characters per millimeter) group-coded recording, including associated programs, shall provide the capability to accept and generate recorded tape in compliance with the requirements set forth in FIPS PUB 50.

(End of requirement statement)

§ 201-8.105-17 FIPS PUB 51, Magnetic Tape Cassettes for Information Interchange (3.810 mm (0.150 in) Tape at 32 BPMM (800 BPI), PE).

(a) FIPS PUB 51 specifies the physical, magnetic, and recording characteristics of a 3.810 mm (0.150 in) magnetic tape cassette in order to provide for data interchange between information processing systems at a recording density of 32 bits per millimeter (BPMM) (800 bits per inch (BPI)) using phase encoding techniques. FIPS PUB 51 adopts the technical specifications contained in American National Standard X3.48-1977, same title.

(b) The standard terminology to be used in requirements documents, including solicitations, is:

Recording Characteristics—32 BPMM 3.810 mm Tape (APR 84 FIRMR)

All magnetic tape cassette recording and reproducing equipment which results from this requirement and employs 3.810 mm (0.150 in) wide magnetic tape at the recording density of 32 bits per millimeter (800 bits per inch) using phase encoding techniques, including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 51.

(End of requirement statement)

§ 201-8.105-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI), Phase Encoded.

(a) FIPS PUB 52 specifies the recorded characteristics for a 6.30 mm (0.250 in) wide magnetic tape cartridge with either one, two, or four serial data tracks in order to provide for data interchange between information processing systems, communication systems, and associated equipment at a recording density of 63 bits per millimeter (BPMM) (1600 bits per inch (BPI)) using phase encoding recording techniques. FIPS PUB 52 adopts the technical specifications contained in American National Standard X3.56-1977, same title, with one exception as noted in the FIPS.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Recorded Characteristics—63 BPMM 6.30 mm Tape (APR 84 FIRMR)

All magnetic tape cartridge recording and reproducing equipment which results from this requirement and employs 6.30 mm (0.250 in) wide magnetic tape with one, two, or four independent serial data tracks at recording densities of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUB 1-1 and FIPS PUB 52.

(End of requirement statement)

§ 201-8.105-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.

(a) FIPS PUB 54 specifies the image arrangement, size, and reduction for 16 mm and 105 mm microforms generated by computer output microfilmers. It is limited to systems using business-oriented fonts similar to line printer output. The standard does not cover engineering drawings or microphoto composition using complex graphics or graphic arts fonts and formats, nor does it cover special systems using two-step reduction techniques.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Computer Generated Microforms—Plain Type Faces (APR 84 FIRMR)

All applicable equipment or services that may result from this requirement that produce computer generated microforms using plain type faces must be in compliance with FIPS PUB 54.

(End of requirement statement)

§ 201-8.105-20 FIPS PUB 60-2, Input/Output (I/O) Channel Interface.

See Temp. Reg. 2, Supp. 1.

§ 201-8.105-21 FIPS PUB 61-1, Channel Level Power Control Interface.

(a) FIPS PUB 61-1 defines the functional, electrical, and mechanical interface specifications for a power control interface for use in connecting computer peripheral equipment as a part of ADP systems. This standard, with a companion standard for I/O Channel Interface (FIPS PUB 60-2), defines the hardware characteristics for the I/O channel level interface. This standard provides that FIPS PUB 61-1 is applicable whenever use of FIPS PUB 60-2 is required. If waivers are applicable to a requirement, the requirements document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 61-1 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Channel Level Power Control Interface (APR 84 FIRMR)

Unless otherwise excluded as specified in FIPS PUB 61-1 by reference to FIPS PUB 60-2 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 61-1, ADP systems and peripheral subsystems that may result from this requirement, and for which operational specifications FIPS PUBS (such as FIPS PUBS 62 and 63-1) have been issued and are in effect, must conform to FIPS PUB 61-1. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with § 201-8.105-21(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 61-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 61-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of requirement statement)

§ 201-8.105-22 FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.

(a) FIPS PUB 62 defines the peripheral device dependent operational interface specifications for connecting magnetic tape equipment as a part of ADP systems. It is to be used with FIPS PUB 60-2, I/O Channel Interface, and FIPS PUB 61-1, Channel Level Power Control Interface. This standard, with FIPS PUBS 60-2 and 61-1, provides for full plug-to-plug interchangeability of magnetic tape equipment as a part of ADP systems. This standard provides that FIPS PUB 62 is applicable to the acquisition of all magnetic tape equipment whenever the use of FIPS PUB 60-2 is required. If waivers are applicable to a requirement, the requirements document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 62 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed to all Federal agencies by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The requirements document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Magnetic Tape Subsystems (APR 84 FIRMR)

Unless otherwise excluded as specified in FIPS PUB 62 by reference to FIPS PUB 60-2 or unless a waiver is granted following the procedures specified in FIPS PUB 62, ADP systems and magnetic tape subsystems that may result from this requirement must conform to FIPS PUB 62. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with § 201-8.105-22(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 62, before the acceptance of these ADP systems to ensure conformance with FIPS PUB 62. Waivers applicable to this requirements document are identified elsewhere in this document.

(End of requirement statement)

§ 201–8.105–23 FIPS PUB 63–1, Operational Specifications for Variable Block, Rotating Mass Storage Subsystems.

See Temp. Reg. 2, Supp. 1.

§ 201–8.105–24 FIPS PUB 81, Data Encryption Standard (DES) Modes of Operations.

(a) FIPS PUB 81 defines four modes of operation that shall be used with the Data Encryption Standard (DES) described in FIPS PUB 46. These modes specify how sensitive computer data will be encrypted (cryptographically protected) and decrypted (returned to original form). This standard shall be used by Federal agencies when acquiring equipment or services that implement the DES in accordance with the provisions of § 201–8.105–15(a).

(b) FIPS PUB 81 specifies the recommended modes of operation for the DES but does not contain requirements for their secure implementation in particular applications. This standard anticipates the development of a set of application standards to achieve this objective.

(c) The standard terminology for use in requirements documents, including solicitations, issued on or after the effective date of FIPS PUB 81 is:

Modes of Operation—Data Encryption (APR 84 FIRMR)

Equipment and services offered as a result of this requirement that implement the Data Encryption Standard (FIPS PUB 46) and that are intended for use in the cryptographic protection of sensitive but unclassified computer data, shall use one or more of the modes of operation specified in FIPS PUB 81.

(End of requirement statement)

§§ 201–8.105–25—201–8.105–27 [Reserved]

§ 201–8.105–28 FIPS PUB 84, Microfilm Readers.

(a) FIPS PUB 84 announces the adoption of the American National Standard for Microfilm Readers (ANSI/NMA MS20–1979). This standard defines the minimum levels of image quality, illumination, and related characteristics for equipment that displays computer-generated microforms that conform to FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16mm and 105mm. (See § 201–8.105–19.) FIPS PUB 84 also specifies the maximum safe temperatures and noise levels for microform readers.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Microform Readers (APR 84 FIRMR)

Microform readers offered as a result of this requirement that display computer-generated microforms conforming to FIPS PUB 54 shall comply with the statements of FIPS PUB 84.

(End of requirement statement)

§ 201–8.105–29 FIPS PUB 85, Optical Character Recognition (OCR) Inks.

(a) FIPS PUB 85 defines the spectral band for read inks and provides spectrophotometric curves for red and blue nonread inks. FIPS PUB 85 is applicable to the acquisition and use by Federal agencies of inks and preprinted forms that will be read by OCR techniques when the interchange of machine-readable information between different systems will be required.

(b) Because of the widely diverse nature of OCR applications, FIPS PUB 85 may not include all of the necessary specifications or considerations for a successful OCR system. American National Standard X3.86–1980 (which is adopted in whole by FIPS PUB 85) recommends consultation among users, suppliers, and manufacturers when new equipment or a new ink with a spectral band different from that specified in the standard is available. When an agency determines that new OCR equipment or a new ink can meet its functional requirements at a lower overall cost, a functional product description may be substituted for FIPS PUB 85.

(c) The standard terminology for use in requirements documents, including solicitations, is:

OCR Inks (APR 84 FIRMR)

Inks and preprinted forms offered as a result of this requirement shall be required to conform to the provisions of FIPS PUB 85 if they will be read by OCR techniques and if the interchange of machine-readable information between different systems may be required.

(End of requirement statement)

§ 201–8.105–30 FIPS PUB 86, Additional Controls for Use With American National Standard Code for Information Interchange.

(a) FIPS PUB 86 specifies a set of encoded control functions to supplement the basic control functions defined in FIPS PUB 1–1 and FIPS PUB 35 to facilitate data interchange between data processing equipment and two-dimensional character-imaging input-output devices.

(b) The architectural assumptions for devices for use with FIPS PUB 86 are contained in American National Standard X3.64–1979, which is part of the FIPS PUB.

(c) The standard terminology for use in requirements documents including solicitations is:

Additional ASCII Controls for Character-Imaging ADP Equipment or Services (APR 84 FIRMR)

All applicable ADP character-imaging equipment or services (e.g., interactive ADP terminals of the display and printer type, line printers, microfilm printers, typesetting composers, word processors, and related devices or services using such devices) offered as a result of the requirements of which this is a part must comply with the requirements set forth in FIPS PUB 86 when such equipment or services employ the character set and encoding conventions prescribed in FIPS PUB 1–1 and FIPS PUB 35, employ primarily character-oriented controls, and are consistent with the architectural assumptions for devices in Appendix B, ANSI X3.64–1979. All ADP terminals that meet these conditions are included in this requirement if they contain alphanumeric keyboards and CRT displays or printers that may be used in any form of on-line interactive application or stand alone off-line data preparation. Computer resident control software may be used, but is not required, to implement specific features of FIPS PUB 86, unless specified otherwise in this document [*insert reference here*].

(End of requirement statement)

§ 201–8.105–31 FIPS PUB 89, Federal Standard for Optical Character Recognition (OCR) Character Positioning.

(a) FIPS PUB 89 specifies the nominal and allowable tolerances of OCR characters (Styles A and B of FIPS PUB 32–1) in relation to other characters and reference points of a document or page. It adopts American National Standard X3.93M–1981, "Standard for Optical Character Recognition (OCR) Character Positioning," in its entirety. This standard is to be used in conjunction with FIPS PUB 32–1, and is applicable to the acquisition of OCR printers, readers, and printed forms.

(b) The standard terminology for use in requirements documents, including solicitations, is:

OCR Printers, Readers, and Printed Forms (APR 84 FIRMR)

OCR printers, readers, and printed forms offered as a result of the requirements of which this is a part shall conform to the statements of the Federal Standard for Optical Character Recognition (OCR) Character Positioning, as stated in FIPS PUB 89, when the interchange of machine sensible information between different systems is required as specified elsewhere in this requirements document [*insert reference here*].

(End of requirement statement)

§ 201-8.105-32 FIPS PUB 91, Federal Standard for Magnetic Tape Cassettes for Information Interchange, Dual Track, Complementary Return-to-Bias (CRB), Four-States Recording on 3.81 mm (0.150 in) Tape.

(a) FIPS PUB 91 specifies the recording characteristics for a 3.81 mm (0.150 in) wide magnetic tape cassette with data recorded on two tracks using complementary recordings and a return-to-bias method of encoding. FIPS PUB 91 adopts the technical specifications contained in American National Standard X3.59-1981, same title.

(b) The standard terminology to be used in requirements documents, including solicitations, is:

Digital Magnetic Tape Cassette Equipment and Associated Programs (APR 84 FIRMR)

All digital magnetic tape cassette recording and reproducing equipment which employ dual track, complementary return-to-bias (CRB), four-states recording techniques on 3.81 mm (0.150 in) tape, including associated programs, offered as a result of the requirement of which this is a part shall provide the capability to accept and generate recorded tape cassettes in compliance with the requirements set forth in the Federal standard as stated in FIPS PUB 91 and as specified elsewhere in this requirements document [*insert reference here*].

(End of requirement statement)

§ 201-8.105-33 FIPS PUB 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track 6.30 mm (0.250 in), 63 BPMM (1600 BPI), Phase Encoded.

(a) FIPS PUB 93 specifies the recorded characteristics for a 6.30 mm (0.250 in) wide magnetic tape cartridge with data recorded across four parallel tracks in order to provide for data interchange between information processing systems at a recording density of 63 bits per millimeter (BPMM) (1600 bits per inch (BPI)) using phase encoding techniques. FIPS PUB 93 adopts the technical specifications contained in American National Standard X3.72-1981, same subject.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Magnetic Tape Cartridge Equipment and Associated Software (APR 84 FIRMR)

All magnetic tape cartridge recording and reproducing equipment which results from this requirement and employs 6.30 mm (0.250 in) wide magnetic tape with data recorded across four parallel tracks at recording densities of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUB 1-1 and FIPS PUB 93.

(End of requirement statement)

§ 201-8.105-34 FIPS PUB 97, Operational Specifications for Fixed Block, Rotating Mass Storage Subsystems.

See Temp. Reg. 2, Supp. 1.

§ 201-8.106 Software standards other than programing languages requirement statements.

This section provides standard terminology for use in requirements documents including solicitations for FIPS PUBS which have been implemented by GSA in the area of standardization listed in § 201-8.103-3 except the area of programing languages. (Standard terminology for use in requirements documents in the area of programing languages is set forth in § 201-8.107.)

§ 201-8.106-1 [Reserved]

§ 201-8.106-2 FIPS PUB 24, Flowchart Symbols and Their Usage in Information Processing.

(a) FIPS PUB 24 established standard flowchart symbols and specifies their use in the preparation of flowcharts in documenting information processing systems. FIPS PUB 24 adopts the technical specifications contained in American National Standard X3.5-1970, same title.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Flowchart Symbols (APR 84 FIRMR)

All new information processing system documentation involving the use of flowcharts that may result from this requirements document must comply with FIPS PUB 24.

(End of requirement statement)

§ 201-8.106-3 FIPS PUB 30, Software Summary for Describing Computer Programs and Automated Data Systems.

(a) FIPS PUB 30 provides for the use of Standard Form (SF) 185, Federal Information Processing Standard Software Summary, and the instructions for describing computer programs and/or automated data systems for identification purposes. (Copies of SF 185 are available as a GSA Federal supply stock item NSN 7540-118-8541.)

(b) The standard terminology for use in requirements documents, including solicitations, is:

Software Summary Descriptions (APR 84 FIRMR)

All documentation of computer programs and/or automated data systems that results from this requirement must include completed SF 185 summaries as described by FIPS PUB 30.

(End of requirement statement)

§ 201-8.106-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.

(a) FIPS PUB 53 provides for the use of Standard Form (SF) 277, Computer Magnetic Tape File Properties, together with the instructions for providing the necessary information on the form. The form is to be used by Federal agencies to document the physical properties and characteristics of a recorded magnetic tape file needed by the receiving agency to process the tape.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Computer Magnetic Tape File Properties (APR 84 FIRMR)

All magnetic tape used to transmit coded information to the Federal Government as a result of this requirement must include completed Standard Form 277 describing magnetic tape file properties as set forth in FIPS PUB 53.

(End of requirement statement)

§ 201-8.106-5 FIPS PUB 79, Magnetic Tape Labels and File Structure for Information Interchange.

(a) FIPS PUB 79 establishes four levels of labeling, label formats, blocking structure, and tape-mark relationships on magnetically recorded tapes so that the tapes can be used for information interchange. Information processing systems that either generate or accept magnetic tapes for information interchange shall have the capability of generating and processing magnetic tape labels and file structure in accordance with FIPS PUB 79.

(b) Specifications described in FIPS PUB 79 must be used in the interchange of magnetic tapes unless the interchanging parties can agree on an alternative interchange format that is more efficient and cost effective.

(c) The standard terminology for use in requirements documents, including solicitations, issued on or after the effective date of FIPS PUB 79 is:

Magnetic Tape Labels and File Structure (APR 84 FIRMR)

Information processing systems using nine-track tape drives and new tape label processing facilities that will be part of an information processing system, offered as a result of this requirement shall be capable of generating and processing tape labels and file structures that conform to one of the four levels of FIPS PUB 79 if the information processing system either generates or accepts magnetic tapes for information interchange. Offerors shall specify the level of conformance and certify that a copy of the current users manual is on file with the

National Bureau of Standards as required by FIPS PUB 79.

(End of requirement statement)

§ 201-8.106-6 FIPS PUB 98, Message Format for Computer Based Message Systems.

See Temp. Reg. 2, Supp. 1.

§ 201-8.107 Federal Information Processing Standards (FIPS) programing languages requirement statements.

Agencies use high level languages for certain computer application programs. When a FIPS PUB which has been implemented by GSA is applicable to any of those languages, the statements of the related subsection of this section shall be followed.

§ 201-8.107-1 FIPS PUB 21-1, Federal Standard COBOL.

(a) FIPS PUB 21-1 specifies the use of American National Standard Programing Language COBOL, X3.23-1974, as the Federal Standard COBOL.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of COBOL Language Compilers (APR 84 FIRMR)

COBOL compilers offered as a result of the requirements of which this is a part shall implement all of the language elements of the level of Federal Standard COBOL specified elsewhere in this requirements document [*insert reference here*] as well as any additional language elements specified elsewhere in this document [*insert reference*]. The compiler shall enable the user to specify optionally a level of Federal Standard COBOL that will monitor the source program at compile time. The compiler shall have the capability to monitor each level at or below the highest level of implementation for the compiler. The monitoring capability shall consist of an analysis of the syntax included in the level as selected for monitoring. Any syntax not conforming to the specified level shall be identified through a diagnostic message in the source program listing. The diagnostic message shall contain at least the identification of the source program line number for each nonconforming syntax and identify the level of Federal Standard COBOL that supports the syntax, or shall indicate that the syntax is nonstandard COBOL.

(End of requirement statement)

§ 201-8.107-2 FIPS PUB 68, Federal Standard Minimal BASIC.

(a) FIPS PUB 68 specifies the use of American National Standard Minimal BASIC, X3.60-1978, as the Federal Standard Minimal BASIC.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of BASIC Language Compilers (APR 84 FIRMR)

BASIC compilers offered as a result of the requirements of which this is a part shall implement Federal Standard Minimal BASIC, as well as any additional language elements as specified elsewhere in the requirements document [*insert reference here*].

(End of requirement statement)

§ 201-8.107-3 FIPS PUB 69, Federal Standard FORTRAN.

(a) FIPS PUB 69 specifies the use of American National Standard Programing Language FORTRAN, X3.9-1978, as the Federal Standard FORTRAN.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of FORTRAN Language Compilers (APR 84 FIRMR)

FORTRAN compilers offered as a result of the requirements of which this is a part shall implement all of the language elements of the level of Federal Standard FORTRAN specified elsewhere in this requirements document [*insert reference here*], as well as any additional language elements as specified elsewhere in this document [*insert reference*]. The compiler shall enable the user to monitor any statement appearing in the source program that does not conform syntactically to the specifications of Federal Standard full FORTRAN.

(End of requirement statement)

§ 201-8.108 Development or acquisition of application programs.

(a) Requirements documents for the development or acquisition of application programs shall specify the use of FIPS programing languages unless the agency determines under procedures established by its Senior Official designated under the Paperwork Reduction Act of 1980 (see 44 U.S.C. 3506(b)) that the purpose of economy and efficiency in the use of ADP will not be served through the use of a Federal Standard language.

(b) The standard terminology for use in requirements documents, including solicitations, when application programs are to be developed or acquired using Federal Standard programing languages is:

Development or Acquisition of Application Programs (APR 84 FIRMR)

When computer application programs are developed or acquired as a result of the requirements of which this is a part, and one of the Federal Standard programing languages is specified elsewhere in this requirements document [*insert reference here*], only the language elements of that Federal Standard, as well as any additional language elements as specified elsewhere in this document [*insert reference*] shall be used. In these cases, if services provided include compilations, compilers used to perform these services shall be validated in accordance with FIRMR § 201-8.109.

(End of requirement statement)

§ 201-8.109 Validation of compilers.

(a) The party offering a compiler asserted to conform to one of the Federal Standard languages shall be responsible for securing validation of the compiler when (1) offered to the Federal Government for purchase, lease, or use in connection with ADP services, or (2) used to develop computer programs when providing programing services or compilation.

(b) A compiler, which is offered or used by vendors as a result of requirements set forth by Federal agencies in requirements documents, including solicitations, shall meet the language elements of the designated FIPS PUB. To confirm that the specifications of the designated FIPS have been met, compiler test cases have been developed and approved for use. Separate Compiler Validation System (CVS) routines for each Federal Standard language are maintained by GSA's Federal Software Testing Center (FSTC).

(c) Federal agencies shall use these test results to confirm that the compiler meets the language elements specifications of that Federal Standard. When an agency has indicated in a requirements document that a waiver applies to a Federal Standard language specification, only the portions of the language that have been waived are excluded from the validation requirements.

(d) The FSTC will conduct compiler validations, as specified in the Compiler Testing Procedures, for each requestor. These validations normally shall be conducted annually. Recertification of a previous validation may be substituted for new validation (at the discretion of the FSTC) if no errors were identified during the previous validation and if no change has been made to the compiler, its supporting system software, or the CVS in the interim.

(e) The requestor is responsible for providing the test facilities necessary to perform the validation. The FSTC conducts a validation test using the appropriate CVS and provides a Validation Summary Report summarizing the test results. If the validation results warrant, a Certificate of Validation is issued.

(f) Validation is performed on a cost-reimbursable basis. The FSTC will send the requestor an estimate of validation cost that must be approved before beginning the validation process.

(g) Unresolved questions and/or any ambiguities that are identified by the FSTC or by the requestor shall be

referred to NBS for resolution in accordance with FIPS PUB 29–1, Interpretation Procedures for Federal Information Processing Standard Languages.

(h) Requests for, and questions on, validation service should be addressed to: General Services Administration (KFT), Office of Software Development, Federal Software Testing Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041, Telephone: (703) 756–6153 or FTS, 756–6153.

(i) When an agency determines that the nature of the requirement is such that a compiler may be offered that has not yet been validated, the requirement statement in paragraph (j), below, shall be included in requirements documents, including solicitations. This alternative allows a vendor to be responsive to the document if a request for validation of the offered compiler has been made. However, if an agency determines that it is essential for a compiler to be validated before being offered, the requirement statement in paragraph (k), below, shall be included in the document. This latter alternative may tend to restrict competition.

(j) The standard terminology for use in requirements documents, including solicitations, when allowing delayed validation is:

Delayed Validation of Compilers (APR 84 FIRMR)

In addition to the compiler requirements specified elsewhere in this requirements document, all compilers for Federal Standard programing languages brought into the Federal inventory as a result of this document and those compilers used by vendors to develop programs or provide services shall be tested using the official Compiler Validation System (CVS). Validation shall be in accordance with FIRMR § 201–8.109.

The results of the validation shall be used to confirm that the compiler meets the requirements of the applicable Federal Standard specified elsewhere in this document. To be considered responsive, the offeror shall:

(1) Certify in the offer that all Federal Standard programing language compilers offered in response to this document have been submitted for validation as set forth in § 201–8.109 or have been previously validated and listed in the latest Federal Software Testing Center (FSTC)-Certified Compiler List. Proof of current validation will be provided in the form of a Certificate of Validation from the FSTC. Unless specified elsewhere in the requirements document, proof of submission for validation will be in the form of a letter from the FSTC scheduling the validation.

(2) Agree to correct all deviations from the applicable Federal Standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of the Federal Standard is required that will invoke the procedures set forth in FIPS PUB 29–1, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decision made under the procedures of FIPS PUB 29–1 shall be completed within 12 months of the date of formal notification to the contractor of the approval of the interpretation. Proof of correction in either case will be in the form of a Certificate of Validation from the FSTC for the corrected compiler. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver the operating system or other software shall apply.

(End of requirement statement)

(k) The standard terminology for use in requirements documents, including solicitations, when requiring prior validation is:

Prior Validation of Compilers (APR 84 FIRMR)

In addition to the compiler requirements specified elsewhere in this requirements document, all compilers for Federal Standard programing languages brought into the Federal inventory as a result of this document and those compilers used by vendors to develop programs or provide services shall have been tested using the official Compiler Validation System (CVS). Validation shall be in accordance with FIRMR § 201–8.109.

The results of the validation shall be used to confirm that the compiler meets the requirements of the applicable Federal Standard specified elsewhere in this document. To be considered responsive, the offeror shall:

(1) Certify in the offer that all Federal Standard programing language compilers offered in response to this document have been previously validated as set forth in § 201–8.109 and listed in the latest Federal Software Testing Center (FSTC) Certified Compiler List. Proof of current validation will be provided in the form of a Certificate of Validation from the FSTC.

(2) Agree to correct all deviations from the applicable Federal Standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of the Federal Standard is required that will invoke the procedures set forth in FIPS PUB 29–1, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29–1 shall be completed within 12 months of the date of formal notification to the contractor of the approval of the interpretation. Proof of correction in either case will be in the form of a Cerificate of Validation from the FSTC for the corrected compiler. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver the operating system or other software shall apply.

(End of requirement statement)

(l) If the party offering the compiler is an activity of the Federal Government, the Federal agency shall be responsible for securing the validation of the compiler in accordance with this §201–8.109.

§ 201–8.110 Data standards requirement statements.

This section provides standard terminology for use in requirements documents, including solicitations, for FIPS PUBS which have been implemented by GSA in the area of standardization listed in § 201–8.103–4.

§ 201–8.110–1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

(a) Data standards facilitate the authorized interchange of data among Federal ADP users and the collection and dissemination of data with State and local governments, industry, and the public. Agencies are also encouraged to use the approved data standards in their data systems when such use contributes to operational benefits, efficiency, or economy. Technical specifications of data standards identified in this § 201–8.110–1 are included in each FIPS PUB with the exception of FIPS PUB 9, Congressional Districts of the United States.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Interchange of Machine Processable Data (APR 84 FIRMR)

All application programs resulting from this requirement that have been identified as those that will be interchanged, or that will record data that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4, Calendar Date.
FIPS PUB 5–1, States and Outlying Areas of the United States.
FIPS PUB 6–3, Counties and County Equivalents of the States of the United States and the District of Columbia.
FIPS PUB 8–4, Standard Metropolitan Statistical Areas.
FIPS PUB 9, Congressional Districts of the United States.
FIPS PUB 10–2, Countries, Dependencies, and Areas of Special Sovereignty.
FIPS PUB 58, Representations of Local Time of the Day for Information Interchange.

FIPS PUB 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.
FIPS PUB 66, Standard Industrial Classification (SIC) Codes.
FIPS PUB 70, Representation of Geographic Point Locations for Information Interchange.
FIPS PUB 95, Code for the Identification of Federal and Federally-Assisted Organizations.

(End of requirement statement)

§ 201–8.111 Applications standards requirement statements.

This § 201–8.111 is reserved for future reference to FIPS PUBS and to standard terminology for use in requirements documents in the areas of standardization listed in § 201–8.103–3.

§ 201–8.112 Federal Telecommunication Standards (FED–STD) requirement statements.

This section provides the standard terminology for use in requirements documents, including solicitations, for FED–STDS which have been implemented by GSA in the area of telecommunications.

§ 201–8.112–1 FED–STD 1002, Time and Frequency Reference Information in Telecommunication Systems.

(a) FED–STD 1002 requires that telecommunication facilities and systems of the Federal Government use time and frequency reference information based upon coordinated universal time (UTC).

(b) The standard terminology for use in requirements documents, including solicitations, is:

Time and Frequency Reference (APR 84 FIRMR)

All applicable telecommunication facilities and systems that are offered or used as a result of this requirement shall be referenced to the time and frequency standard specified in FED–STD 1002.

(End of requirement statement)

§§ 201–8.112–2—201–8.112–3 [Reserved]

§ 201–8.112–4 FED–STD 1005, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems.

(a) FED–STD 1005 establishes the coding and modulation requirements for 2400 bit per second modems used by the Federal Government over analog transmission channels other than those derived from high-frequency radio facilities.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Coding and Modulation—2400 BIT/SEC (APR 84 FIRMR)

All nondiversity 2400 bit per second modems offered as a result of this requirement for use with 4kHz channels derived from either switched networks or dedicated lines shall comply with FED–STD 1005.

(End of requirement statement)

§ 201–8.112–5 FED–STD 1006, Coding and Modulation Requirements for Duplex 4800 Bit/Second Modems.

(a) FED–STD 1006 requires that all Federal departments and agencies shall comply with the standard in the design and acquisition of telecommunication systems and equipment having a requirement of 4800 bit per second modems used with nominal 4kHz analog channels.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Coding and Modulation—4800 BIT/SEC (APR 84 FIRMR)

All 4800 bit per second modems (and equipment containing 4800 bit per second modems) offered as a result of this requirement for use with nominal 4kHz analog channels shall comply with FED–STD 1006.

(End of requirement statement)

§ 201–8.112–6 FED–STD 1007, Coding and Modulation Requirements for Duplex 9600 Bit/Second Modems.

(a) FED–STD 1007 establishes coding and modulation requirements for duplex 9600 bit per second modems used by the Federal Government over four-wire nominal 4kHz analog transmission channels. Typically, these channels are derived from frequency division multiplex equipment associated with microwave, coaxial cable, and satellite transmission systems.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Coding and Modulation—Duplex 9600 BIT/SEC (APR 84 FIRMR)

All duplex 9600 bit per second modems offered as a result of this requirement for use with nominal 4kHz analog transmission channels shall comply with FED–STD 1007.

(End of requirement statement)

§ 201–8.112–7 FED–STD 1008, Coding and Modulation Requirements for Duplex 600 and 1200 Bit/Second Modems.

(a) FED–STD 1008 establishes coding and modulation requirements for duplex 600 bit per second and/or 1200 bit per second modems for use over 4kHz analog transmission channels terminated by "two-wire" circuits. Federal departments and agencies shall comply with the requirements of this standard in the design and acquisition of such modems except when they are to be acoustically coupled to telephone instruments.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Coding and Modulation—Duplex 600/1200 BIT/SEC (APR 84 FIRMR)

All two-wire duplex 600 bit per second and/or 1200 bit per second modems (except those to be acoustically coupled to telephone instruments) offered as a result of this requirement for use with nominal 4kHz analog channels shall comply with FED–STD 1008.

(End of requirement statement)

§§ 201–8.112–8—201–8.112–10 [Reserved]

§201–8.112–11 FED–STD 1020A, Electrical Characteristics of Balanced Voltage Digital Interface Circuits.

(a) FED–STD 1020A specifies the electrical characteristics of balanced voltage digital interface circuits employed for the interchange of serial binary information conveyed at the DC baseband level at signaling rates of up to 10 megabits per second. It adopts, with the additional requirements stated therein, Electrical Industries Association (EIA) Standard RS–422–A. Federal agencies shall use this standard in the design and/or acquisition of equipment requiring these interface circuits. Note that some digital interfaces; e.g., EIA RS–232C or CCITT V.35, do not require the use of these circuits. Therefore, FED–STD 1020A is required only to the extent that user applications or specific digital interfaces dictate the use of these circuits.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Digital Interface Circuits—Balanced Voltage (APR 84 FIRMR)

All equipment using balanced voltage digital interface circuits that is offered as a result of this requirement shall comply with the electrical characteristics addressed by FED–STD 1020A.

(End of requirement statement)

§ 201–8.112–12 [Reserved]

§ 201–8.112–13 FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.

(a) FED–STD 1027 specifies the security requirements in telecommunications equipment and systems used by the U.S. Government when unclassified information is required to be encrypted for transmission. FED–STD 1027 implements the Data Encryption Standard (DES) algorithm described in FIPS PUB 46. Since FIPS PUB 46 is incorporated, by

definition, into FED-STD 1027, a citation for FIPS PUB 46 is not required in the requirements document when FED-STD 1027 is specified.

(b) The heads of departments and agencies are responsible for determining when unclassified information must be encrypted during transmission.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Cryptographic Components, Equipment, Systems, and Services (APR 84 FIRMR)

If a requirement for the encryption protection of unclassified digital information in the telecommunications environment is specified elsewhere in this requirements document, all cryptographic components, equipment, systems, and services offered to meet that requirement must comply with FED-STD 1027 and be endorsed as so complying by the National Security Agency prior to being proposed. These items include stand alone DES cryptographic equipment as well as any Data Terminal Equipment and Data Circuit-Terminating Equipment utilizing the DES algorithm (described in FIPS PUB 46) for digital encryption. Arrangements for endorsement may be made with the Communications Protection Special Projects Office (S93), National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755.

(End of requirement statement)

(d) Listings of cryptographic components, equipment, and systems that have been previously endorsed as complying with FED-STD 1027 are available from the Executive Secretary, National Communications Security Committee, Operations Building 3, 9800 Savage Road, Fort George G. Meade, MD 20755.

(e) The following documents provide additional information in this regard: NCSC-10, National Policy for Protection of U.S. National Security-Related Information Transmitted Over Satellite Circuits; NCSC-11, National Policy for Protection of Telecommunication Systems Handling Unclassified National Security-Related Information; and Presidential Directive 24, "Telecommunications Protection Policy".

§ 201-8.112-14 FED-STD 1030A, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.

(a) FED-STD 1030A specifies the electrical characteristics of unbalanced voltage digital interface circuits employed for the interchange of serial binary information conveyed at the DC baseband level at signaling rates of up to 100 kilobits per second. It adopts, with the additional requirements stated therein, Electronic Industries Association (EIA) Standard RS-423-A. Federal agencies shall use this standard in the design and/or acquisition of equipment requiring these interface circuits. Note that some digital interfaces; e.g., EIA RS-232-C or CCITT V.35, do not require the use of these circuits. Therefore, FED-STD 1030A is required only to the extent that user applications or specific digital interfaces dictate the use of these circuits.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Digital Interface Circuits—Unbalanced Voltage (APR 84 FIRMR)

All equipment using unbalanced voltage digital interface circuits that is offered as a result of this requirement shall comply with the electrical characteristics addressed by FED-STD 1030A.

(End of requirement statement)

§ 201-8.112-15 [Reserved]

§ 201-8.112-16 FED-STD 1061, Group 2 Facsimile Apparatus for Document Transmission.

(a) FED-STD 1061 establishes the machine specifications for Group 2 facsimile apparatus used on voiceband analog circuits. This group exploits bandwidth compression techniques to achieve a transmission time of approximately 3 minutes for a 216 mm by 297 mm size document with a nominal resolution of four (4) lines per mm.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Facsimile Apparatus (Group 2)—Voiceband Analog Circuits (APR 84 FIRMR)

All Group 2 facsimile apparatus offered as a result of this requirement for use with voiceband analog circuits shall comply with FED-STD 1061.

(End of requirement statement)

§ 201-8.112-17 FED-STD 1062, Group 3 Facsimile Apparatus for Document Transmission.

(a) FED-STD 1062 establishes machine specifications for Group 3 facsimile apparatus, as defined in the FED-STD, for use over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188-161 applies to tactical users within the Department of Defense.

(b) FED-STD 1062 does not apply to the transmission of mixed mode information such as coded character data and image data. Technical specifications of the standard are contained in Electronic Industries Association Standard RS-465.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 3 Facsimile Apparatus (APR 84 FIRMR)

All Group 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED-STD 1062.

(End of requirement statement)

§ 201-8.112-18 FED-STD 1063, Telecommunications: Procedures for Document Facsimile Transmission.

(a) FED-STD 1063 specifies procedures for transmitting facsimile documents over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188-161 applies to tactical users within the Department of Defense.

(b) FED-STD 1063 does not apply to the transmission of mixed mode information such as coded character data and image data. Technical specifications of the standard are contained in Electronic Industries Association Standard RS-466. Group 1, 2, and 3 facsimile apparatus are described in Electronic Industries Association Standard RS-465.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 1, 2, and 3 Facsimile Apparatus (APR 84 FIRMR)

All group 1, 2, and 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED-STD 1063.

(End of requirement statement)

§ 201-8.113 Joint FIPS/FED-STD requirement statements.

This section provides standard terminology for use in requirements documents including solicitations for Joint Federal Information Processing Standards and Federal Telecommunication Standards which have been implemented by GSA.

§ 201-8.113-1 FIPS PUB 37/FED-STD 1001, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.

(a) FIPS PUB 37/FED-STD 1001 establishes signaling rate requirements for data terminal and data processing equipment which is (1) employed with synchronous data communication equipment and (2) designed to operate

on binary encoded information over wideband communication channels having greater bandwidth than the normal 4kHz bandwidth commonly used in analog voice transmission. This standard adopts the technical specifications contained in American National Standard X3.36–1975, same title.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Synchronous High Speed Data Signaling Rates (APR 84 FIRMR)

All applicable equipment or services resulting from this requirement that are employed with synchronous data communication equipment designed to operate on binary coded information over wideband communication channels must comply with FIPS PUB 37/FED–STD 1001.

(End of requirement statement)

§ 201–8.113–2 FIPS PUB 16–1/FED–STD 1010, Bit Sequencing of the Code for Information Interchange in Serial-By-Bit Data Transmission.

(a) FIPS PUB 16–1/FED–STD 1010 specifies the method of transmitting the Standard Code for Information Interchange, FIPS PUB 1–1, in serial-by-bit, serial-by-character data transmission. FIPS PUB 16–1 supersedes FIPS PUB 16 and reflects changes necessary to accomodate FIPS PUB 1–1 when operating in either 7- or 8-bit coded environments. The standard is applicable to the transmission of the standard code in a serial bit stream form at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1–1 must comply with FIPS PUB 16–1/FED–STD 1010. This standard adopts the technical specifications contained in American National Standard X3.15–1976, same subject.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Bit Sequencing—Serial Data Transmission (APR 84 FIRMR)

All applicable equipment or services that may result from this requirement, transmitting in a serial-by-bit, serial-by-character mode, must be capable of bit sequencing as prescribed in FIPS PUB 16–1/FED–STD 1010 for the transmission of the Standard Code for Information Interchange, FIPS PUB 1–1, at the interface between data terminal equipment and data communication equipment.

(End of requirement statement)

§ 201–8.113–3 FIPS PUB 17–1/FED–STD 1011, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the Code for Information Interchange.

(a) FIPS PUB 17–1/FED–STD 1011 specifies the method of transmitting the Standard Code for Information Interchange, FIPS PUB 1–1, in the serial-by-bit, serial-by-character data transmission. FIPS PUB 17–1 supersedes FIPS PUB 17 and reflects changes necessary to accommodate revisions prescribed in FIPS PUB 1–1 when operating in either 7– or 8–bit coded environments. The standard is applicable at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1–1 must comply with FIPS PUB 17–1/FED–STD 1011. This Standard adopts the technical specifications contained in American National Standard X3.16–1976, same subject.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Character Structure/Parity—Serial Data Transmission (APR 84 FIRMR)

All applicable equipment that may result from this requirement, transmitting in a serial-by-bit, serial-by-character synchronous or asynchronous mode, must be capable of transmitting the character structure and sense of character parity prescribed in FIPS PUB 17–1/FED–STD 1011 for the transmission of the Standard Code for Information Interchange, FIPS PUB 1–1, at the interface between data terminal equipment and data communication equipment.

(End of requirement statement)

§ 201–8.113–4 FIPS PUB 18–1/FED–STD 1012, Character Structure and Character Parity Sense for Parallel-By-Bit Data Communication in the Code for Information Interchange.

(a) FIPS PUB 18–1/FED–STD 1012 specifies the channel assignment for transmitting the Standard Code for Information Interchange, FIPS PUB 1–1, in parallel-by-bit, serial-by-character data transmission. FIPS PUB 18–1 supersedes FIPS PUB 18 and reflects changes necessary to accommodate revisions prescribed by FIPS PUB 1–1 when operating in either 7- or 8-bit coded environments. The standard is applicable at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1–1 must comply with FIPS PUB 18–1/FED–STD 1012. This Standard adopts the technical specifications contained in American National Standard X3.25–1976, same subject.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Character Structure/Parity—Parallel Data Transmission (APR 84 FIRMR)

All applicable equipment or services that may result from this requirement, transmitting in a parallel-by-bit, serial-by-character mode, must be capable of transmitting the character structure and sense of character parity prescribed in FIPS PUB 18–1/FED–STD 1012, when transmitting the Standard Code for Information Interchange, FIPS PUB 1–1, or an approved Federal subset (FIPS PUB 15) at the interface between data terminal equipment and data communication equipment.

(End of requirement statement)

§ 201–8.113–5 FIPS PUB 22–1/FED–STD 1013, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment.

(a) FIPS PUB 22–1/FED–STD 1013 specifies the rates of transferring binary encoded information in synchronous serial or parallel form between data processing terminal and data communication equipment that employ voice band communication facilities. FIPS PUB 22–1 supersedes FIPS PUB 22 and reflects changes made to the corresponding American National Standard X3.1–1976.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Synchronous Voice Band Data Signaling Rates (APR 84 FIRMR)

All applicable equipment or services resulting from this requirement that are employed in conjunction with synchronous data communication equipment designed to operate on binary encoded information in either serial or parallel fashion over voice grade communication channels of nominal 4kHz bandwidth must comply with FIPS PUB 22–1/FED–STD 1013.

(End of requirement statement)

§ 201–8.113–6 FIPS PUB 71/FED–STD 1003A, Advanced Data Communication Control Procedures (ADCCP).

(a) FIPS PUB 71/FED–STD 1003A establishes data link control procedures for systems, equipment, and services using synchronous, bit-oriented data communications.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Data Link Control—Synchronous Bit-Oriented Data (APR 84 FIRMR)

All systems, equipment, and services using synchronous, bit-oriented data communications offered as a result of this requirement shall implement the classes of

procedures specified in FIPS PUB 71/FED-STD 1003A.

(End of requirement statement)

§ 201-8.113-7 FIPS PUB 100/FED-STD 1041, Interface between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communication Networks.

See Temp. Reg. 2, Supp. 1.

Subpart 201-8.2—Federal Records Management Standards

See Federal Property Management Regulations (FPMR) Part 101-11.

7. Parts 201-9 and 201-10 are added and reserved to read as follows:

PART 201-9—[RESERVED]

PART 201-10—[RESERVED]

8. Part 201-11 is added to read as follows:

PART 201-11—COMPETITION

Sec.
201-11.000 Scope of part.
201-11.001 General. [Reserved]
201-11.001-1 Application of FAR provisions. [Reserved]
201-11.002 Competition in ADP acquisition actions.
201-11.002-1 Competitive ADP acquisitions.
201-11.002-2 Noncompetitive ADP acquisition and documentation.
201-11.003-Competition in telecommunication acquisition actions actions.
201-11.003-1 Competitive telecommunication acquisitions.
201-11.003-2 Sole source telecommunication acquisitions.

Authority: Sec. 201(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-11.000 Scope of part.

This part prescribes policies for the application of competition as a means to attain economy and efficiency in the satisfying of ADP and telecommunication needs of the Government.

§ 201-11.001 General. [Reserved]

§ 201-11.001-1 Application of FAR provisions. [Reserved]

§ 201-11.002 Competition in ADP acquisition actions.

§ 201-11.002-1 Competitive ADP acquisitions.

(a) Full and open competition is a basic acquisition objective of the Government. The maximum practicable competition among offerors who are capable of meeting the user's needs will ensure that the Government's ADP needs are satisfied at the lowest overall cost, price and other factors considered, over the system/item life. To meet fully the lowest overall cost objective, it is essential that proper management and planning actions be accomplished before the acquisition becomes imminent (see Parts 201-20, 201-21, and 201-24).

(b) Agency ADP managers and contracting officers share the responsibility for ensuring that the basic procurement objective is met. This responsibility extends to fostering competitive conditions for subsequent procurements.

(c) Agencies must keep their systems life and contract expiration dates in mind when planning for future ADP requirements activities. Agency plans for follow-on procurement should allow sufficient time for the acquisition process, including conversion of data files and programs, if required. A competition for the follow-on period shall be started and should be completed before the expiration of the existing contract.

§ 201-11.002-2 Noncompetitive ADP acquisition and documentation.

(a) When only one contractor can meet the selecting agency's requirements, the agency shall document its files with the basis and justification for the source selection and retain the documentation to manage and plan for the subsequent procurement. Agency ADP managers and contracting officers share responsibility for management and planning actions necessary to foster competitive conditions for subsequent procurements. An acquisition plan showing the major milestones for completing a follow-on competitive selection shall be prepared. When the estimated cost of particular requirements exceeds the sole-source or specific make or model procurement threshold set forth in § 201-23.104, §§ 201-23.106-1(a)(11) and 201-23.106-1(b)(4)(iv) require that additional documentation be submitted with the Agency Procurement Request (APR).

(b) The system-life duration for an anticipated sole-source procurement should be held to the minimum practicable life.

(c) If at any time during a competitive procurement only one vendor remains in the competition or if efforts to obtain competition fail, the procurement files shall be documented before contract award to reflect this condition and the reasons therefor.

§ 201-11.003 Competition in telecommunication acquisition actions.

§ 201-11.003-1 Competitive telecommunication acquisitions.

See Temp. Reg. 4.

§ 201-11.003-2 Sole source telecommunication acquisitions.

See Temp. Reg. 4.

9. Parts 201-12, 201-13, 201-14, and 201-15 are added and reserved to read as follows:

PART 201-12—[RESERVED]

PART 201-13—[RESERVED]

PART 201-14—[RESERVED]

PART 201-15—[RESERVED]

SUBCHAPTER C—ADMINISTRATION OF INFORMATION RESOURCES ACTIVITIES

10. Part 201-16 is added to read as follows:

PART 201-16—PLANNING AND BUDGETING FOR INFORMATION RESOURCES ACTIVITIES

Sec.
201-16.000 Scope of part. [Reserved]
201-16.001 General. [Reserved]
201-16.002 Planning requirements.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-16.000 Scope of part. [Reserved]

§ 201-16.001 General. [Reserved]

§ 201-16.002 Planning requirements.

(a) Agencies are required to prepare and submit annual agency-wide ADP plans in accordance with OMB Circular A-11. A copy of this plan shall be provided to GSA (KMA) concurrently with each submission to OMB. In addition to the plan, the following supplemental information shall be submitted to GSA (KMA):

(1) Trends in data processing workloads that will or may saturate existing system capabilities prior to expiration of the full established initial user's system/item life;

(2) Opportunities to take advantage of cost effective enhancements brought about by new ADPE technology, software improvements, and changes in the marketplace;

(3) Actions planned regarding system redesign to improve the efficiency and effectiveness of application software, the conversion of software to higher level languages, and the audit and update of documentation for consistency with the guidelines issued by the National Bureau of Standards; and

(4) The proposed acquisition strategy with acquisition schedule for meeting projected ADP resource needs identified in the ADP plans submitted pursuant to OMB Circular A-11.

(b) GSA will use the information to estimate Government-wide

requirements and to develop acquisition programs to assist agencies in meeting their information technology needs in an efficient and economic manner. The report required in this regulation has been cleared in accordance with FPMR 101–11.11 and assigned Interagency Report Control No. 0016–GSA–AN.

(c) See Temp. Reg. 7.

(d) See Temp. Reg. 8.

11. Parts 201–17, 201–18, and 201–19 are added and reserved to read as follows:

PART 201–17—[RESERVED]

PART 201–18—[RESERVED]

PART 201–19—[RESERVED]

12. Parts 201–20 and 201–21 are added to read as follows:

PART 201–20—ADP MANAGEMENT PROGRAMS

Sec.

201–20.000 Scope of part.
201–20.001 Agency accountability. [Reserved]
201–20.002 Plans.
201–20.003 Requirements analysis.
201–20.004 Privacy and security.
201–20.005 Standards.
201–20.006 Sharing and reuse of ADP resources.
201–20.007 Conversion management and planning.
201–20.008 ADP records management functions.
201–20.009—201–20.010 [Reserved]
201–20.011 GSA service programs.
201–20.011–1 Agency liaison officer (ALO) program.
201–20.011–2 Federal Date Processing Centers (FDPC).
201–20.011–3 Federal Conversion Support Center (FCSC).
201–20.011–4 Federal Software Testing Center (FSTC).
201–20.011–5 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).
201–20.011–6 Federal Software Exchange Program.
201–20.012 GSA procurement programs.
201–20.012–1 GSA requirements contracts.
201–20.012–2 GSA schedule contracts.
201–20.012–3 GSA regional support services contracts.
201–20.012–4 Office Technology Plus.
201–20.013 GSA reporting programs. [Reserved]
201–20.014 Assistance by GSA.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201–20.000 Scope of part.

This part prescribes policies and procedures regarding administrative programs for the planning, organizing, and controlling of resources for agency automatic data processing (ADP) requirements.

§ 201–20.001 Agency accountability. [Reserved]

§ 201–20.002 Plans.

Agency information resource management officials are responsible for monitoring requirements and for developing plans to meet future needs at the lowest overall cost. Plans should include initial acquisitions and augmentation or replacement of installed resources. (See also Part 201–16.)

§ 201–20.003 Requirements analysis.

The acquisition of an initial information resource capability or the augmentation or replacement of an existing capability shall be preceded by a comprehensive requirements analysis that is commensurate with the scope and complexity of the program objectives and missions needs. The operational and economic feasibility of all alternative solutions, including use of non-ADP resources, sharing, use of commercial ADP services, and reutilization of excess Government-owned or –leased equipment shall be considered. Policies and procedures for conducting requirements analyses are contained in § 201–30.007.

§ 201–20.004 Privacy and security.

Information resource managers shall establish safeguards necessary for the adequate protection of personal privacy and the security of ADP operations. (See also Parts 201–6 and 201–7.)

§ 201–20.005 Standards.

Federal information processing standards publications (FIPS PUBS) and Federal telecommunications standards (FED-STD) shall be implemented when applicable. Procedures for waiver or exception shall be complied with for each applicable mandatory FIPS PUB or FED-STD that is not implemented. (See also Part 201–8.)

§ 201–20.006 Sharing and reuse of ADP resources.

See Temp. Reg. 7.

§ 201–20.007 Conversion management and planning.

Agency ADP officials shall take those steps as may be feasible to minimize the risk and cost of conversion to replacement ADP systems and services to achieve economy and efficiency in meeting agency needs. (See also § 201–30.012.)

§ 201–20.008 ADP records management functions.

The regulations relating to the objectives, responsibilities, requirements, and implementation of the ADP records management function are located at FPMR § 101–11.210.

§§ 201–20.009—201–20.010 [Reserved]

§ 201–20.011 GSA service programs.

§ 201–20.011–1 Agency liaison officer (ALO) program.

GSA conducts an agency liaison officer program designed to establish an early and sustained relationship between GSA and agencies choosing to participate. Under an interagency agreement, a GSA liaison officer is assigned to further coordination and cooperation on information resource management and relationship matters. Agencies should contact General Services Administration (KTA), Washington, DC 20405 for further information, telephone (202) 566–0202, or FTS, 566–0202.

§ 201–20.011–2 Federal Data Processing Centers (FDPC).

Federal Data Processing Centers are Government managed data processing facilities providing computing services to Federal agencies on a cost-reimbursable basis. FDPCs are a special class of Government sharing sources for computing services that have been selected to meet the objectives of an effective GSA sharing program. (See also § 201–31.010.)

§ 201–20.011–3 Federal Conversion Support Center (FCSC).

The Federal Conversion Support Center is the primary resource for software conversion technology within the Federal government. It is operated by GSA to provide Federal agencies with specialized technical and contracting expertise, techniques, and tools to plan conversion studies and accomplish software conversions. It provides these services to Federal activities on a reimbursable basis. Agencies should contact the FCSC for further information, telephone (703) 756–6156 or FTS, 756–6156. The address: General Services Administration, Federal Conversion Support Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041.

§ 201–20.011–4 Federal Software Testing Center (FSTC).

The Federal Software Testing Center validates compilers which are acquired by or are utilized in the performance of ADP services in the Federal Government. It is operated by GSA. (See also § 201–8.109.) Agencies should contact the FSTC for further information, telephone (703) 756–6153 or FTS, 756–6153. The address: General Services Administration, Federal

Software Testing Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041.

§ 201-20.011-5 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).

The Federal Computer Performance Evaluation and Simulation Center provides technical assistance, support, and services on a reimbursable basis to Federal agencies for simulation, analysis, and performance evaluation of ADP systems. FEDSIM shall be considered as a source of supply for these services. It is operated by the Department of the Air Force under a delegation from GSA. (See also § 201-34.002-1.) Agencies should contact the FEDSIM for further information, telephone (703) 274-8065.

§ 201-20.011-6 Federal Software Exchange Program.

The GSA Federal Software Exchange Program promotes and administers the sharing of Government developed computer programs and related documentation. Policies and procedures are at § 201-31.014.

§ 201-20.012 GSA procurement programs.

§ 201-20.012-1 GSA requirements contracts.

GSA makes selected ADP equipment and software offerings available on indefinite delivery type requirements contracts for acquisition by Federal agencies. Requirements contracts are required to be used for acquisitions that are within the scope and provisions of the particular contract. (See also § 201-32.207.)

§ 201-20.012-2 GSA schedule contracts.

(a) GSA makes numerous ADP, ADP related, and telecommunications equipment, services, and software offerings available on indefinite delivery type non-mandatory schedule contracts for acquisition by Federal agencies. Schedule contracts are designed to provide economic advantages to the Government (when compared to the open competitive commercial marketplace for comparable terms, conditions, and circumstances) at low administrative expense, primarily for lower value acquisitions. (See also § 201-32.206.)

(b) GSA makes teleprocessing services offerings available on indefinite delivery type schedule contracts for acquisition by Federal agencies. These schedule contracts (or GSA negotiated basic agreements) are required to be used for acquisitions that are within the scope of the Teleprocessing Services Program (TSP). (See also § 201-32.303.)

§ 201-20.012-3 GSA regional support services contracts.

GSA establishes and makes available for the non-mandatory use of other agencies a variety of regional ADP support services contracts. These contracts may include such areas as software development and programming, production of computeroutput microfilm (COM), and data entry. Agencies should consult with their GSA regional office to determine the scope and availability of these contracts. (See also § 201-32.304.)

§ 201-20.012-4 Office Technology Plus.

GSA is conducting a pilot contract program patterned after the retail computer store concept. These stores provide potential Federal agency users of end-user computers with counseling and training in connection with the acquisition of small computers and software packages. Agencies should contact the GSA Contracting Officer's Technical Representative for further information, telephone (202) 523-1493 or FTS, 523-1493).

§ 201-20.013 GSA reporting programs. [Reserved]

§ 201-20.014 Assistance by the GSA.

Assistance in any phase of the management or contracting process covered by the FIRMR may be obtained by contacting the General Services Administration (KMA), Washington, DC 20405, telephone (202) 566-1126 or FTS, 566-1126.

PART 201-21—TELECOMMUNICATIONS MANAGEMENT PROGRAMS

Sec.

201-21.000 Scope of part.
201-21.001 Agency management program.
201-21.002 Plans. [Reserved]
201-21.003 Management and control of telephone station equipment and features.
201-21.004 Management of communication networks. [Reserved]
201-21.005 Protection of personal privacy.
201-21.006 Major changes and new installations.
201-21.007 Routine changes and use of the FTS.
201-21.008 [Reserved]
201-21.009 [Reserved]
201-21.010 [Reserved]
201-21.011 GSA policies and objectives.
201-21.012 GSA acquisition programs.
201-21.012-1 Agency exclusive use telecommunication contracts.
201-21.013 GSA surveys.
201-21.014 The Federal Telecommunications System (FTS).
201-21.015 GSA and tariffs.
201-21.015-1 Tariff interpretation.
201-21.015-2 Representation and negotiation.
201-21.016 GSA reporting programs. [Reserved]
201-21.017 GSA advice and assistance.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-21.000 Scope of part.

This part prescribes policies and procedures regarding administrative programs for the planning, organizing, and controlling of resources for agency telecommunications requirements.

§ 201-21.001 Agency management program.

Each agency shall have a telecommunications management program, suited to its size, organization, and mission needs. The program shall implement the FIRMR, as applicable, and should extend to all levels of the agency's organization. A goal of every telecommunications management program should be to increase the employees' awareness of what they can do to reduce the high cost of telecommunications services.

§ 201-21.002 Plans. [Reserved]

§ 201-21.003 Management and control of telephone station equipment and features.

Telephone station equipment is a major element of telecommunication system costs and the most visible aspect of communications. This equipment should meet the needs of the agencies at the lowest overall cost to the Government. Telephone station equipment requirements shall be determined through a detailed analysis of the functions and operations of the applicable office. Economy, efficiency, and the ability of the telephone system to support the mission and goals of the organization shall be the primary considerations in the selection of telephone equipment and facilities. (See also §§ 201-38.011 and 201-38.011-1.)

§ 201-21.004 Management of communication networks. [Reserved]

§ 201-21.005 Protection of personal privacy.

The Privacy Act of 1974 (5 U.S.C. 552a) (the Act) establishes administrative procedures regarding the implemention and use of systems of records dealing with personal data. The Act also requires the provision of appropriate safeguards to protect against threats and hazards to systems of records. Regulations concerning privacy safeguards with regard to information resources are in Part 201-6 and § 201-40.003. (See also Part 201-7 regarding security.)

§ 201-21.006 Major changes and new installations.

Regulations regarding the management of major changes, relocations, replacements, or new installations are set forth in Part 201-39. Contracting aspects are set forth in Part 201-40.

§ 201-21.007 Routine changes and operations.

Regulations regarding routine changes and operation of the FTS are set forth in Part 201-41.

§§ 201-21.008—201-21.010 [Reserved]

§ 201-21.011 GSA policies and objectives.

(a) It is the policy of the Administrator of the General Services to—

(1) Provide communications services for executive agencies at the minimum total cost to the Government consistent with requirements for capacity, efficiency of operation, reliability of service, security, and programmed activities.

(2) Enter into agreements with other departments and agencies that would permit their operation of special purpose communications facilities.

(3) Establish only necessary reports, reporting procedures, and forms which will assist in providing for the Government an economical and efficient system for telecommunications management.

(4) Place maximum reliance on commercial sources for telecommunications services and facilities to meet the needs of the Federal Government, and to acquire those services and facilities competitively to the maximum practicable extent.

(b) The objectives of GSA's communications program are to—

(1) Provide a unified and coordinated Federal Telecommunications System (FTS) within the United States and its insular possessions designed to strengthen the national security posture and to provide economical and efficient telecommunications services for normal and emergency requirements to civil agencies and to fulfill the responsibilities of the Administrator of General Services in the development and implementation of the National Communications System.

(2) Establish policies, methods, and procedures and provide guidance for executive agencies to insure efficient and economical acquisition and utilization of telecommunication services and facilities.

(c) Provide to agencies information and guidance regarding the Government-wide telecommunications services managed and operated by GSA.

§ 201-21.012 GSA acquisition programs.

GSA enters into general-purpose and special-purpose contracts for telecommunications services to executive agencies. GSA has a special statutory authority for entering into long-term contracts not to exceed 10 years (see Subpart 201-23.6). GSA will enter into appropriate contracts, upon request, when it has been determined that such contracts are advantageous to the Government in terms of economy, efficiency, and service.

§ 201-21.012-1 Agency exclusive use telecommunication contracts.

(a) Executive agencies are required to make written requests (see Part 201-39) to GSA to contract for general- or special-purpose services where requirements involve annual recurring charges or termination liabilities in excess of $50,000.

(b) Except for long-term contracts under the special statutory authority of GSA, executive agencies are authorized to enter into contracts for requirements which are not listed in paragraph (a) above. One conformed copy of each such contract shall be furnished to GSA (KETE).

§ 201-21.013 GSA surveys.

GSA, in coordination with the agency involved, will survey executive agency requirements for, and utilization of, telecommunication facilities and services and will advise and assist executive agencies in the implementation of improvements determined, with due regard to the program activities of the agency involved, to be advantageous to the Government in terms of economy, efficiency, or service.

§ 201-21.014 The Federal Telecommunications System (FTS).

(a) FTS, under the overall direction and management of GSA, is the primary and recommended system for use by Federal agencies in the conduct of Federal Government business. This program incorporates the features of centralized procurement and management of consolidated local service and network facilities.

(b) The FTS provides voice, record, data, and facsimile services over point-to-point and switched networks. The system includes the intercity voice network, the consolidated local telephone service, the Federal Secure Telephone Service, the Federal consolidated DATACOM service, and other networks which are for the exclusive or common use of Federal agencies or support Government business. (Note.—The transfer of the Advanced Record System (ARS) to the Veterans Administration was announced by FPMR Bulletin F-158.)

(c) The FTS program provides for the installation, maintenance, and system design of telecommunications security devices and systems to aid in the operation of Federal agencies' telecommunications facilities.

(d) The FTS includes a circuit management program that agencies shall use to obtain their intercity circuits.

§ 201-21.015 GSA and tariffs.

§ 201-21.015-1 Tariff interpretation.

GSA will provide, upon request, information on published tariff rates for communications services, including tariff interpretation and application. Inquiries should set forth in detail the nature of the communications service requested, proposed carrier rate treatment, if known, and agency comments pertinent thereto.

§ 201-21.015-2 Representation and negotiation.

GSA, in behalf of executive agencies, will conduct negotiations with communications carriers and suppliers, and where circumstances warrant, will institute formal or informal action, as required, before Federal and State regulatory bodies to contest the level, structure, or applicability of rates or service terms.

§ 201-21.016 GSA reporting programs. [Reserved]

§ 201-21.017 GSA advice and assistance.

GSA will provide assistance to executive agencies regarding telecommunications services and facilities, including communications program development, delineation of communications requirements, security, equipment and related services, methods and procedures for developing the capability for efficient telecommunications operations, prices, and telecommunication acquisitions. Except as otherwise provided, requests for advice and assistance concerning this part should be addressed to: General Services Administration (KMA), Washington, DC 20405 or GSA regional OIRM Telecommunications Branches.

13. Part 201-22 is added and reserved to read as follows:

PART 201-22—[RESERVED]

14. Parts 201-23 and 201-24 are added to read as follows:

PART 201-23—DELEGATIONS OF AUTHORITY

Sec.

201-23.000 Scope of part.
201-23.001 General. [Reserved]

Subpart 201-23.1—Contracting Authority for ADP Resources

201-23.100 Scope of subpart.
201-23.101 General. [Reserved]
201-23.102 Responsibility for conduct and accountability of acquisitions made under delegation of contracting authority from GSA.
201-23.103 Procurement and contracting authority.
201-23.104 Blanket regulatory delegations of procurement authority.
201-23.104-1 Automatic data processing equipment (ADPE).
201-23.104-2 Software.
201-23.104-3 Maintenance services.
201-23.104-4 Related ADPE supplies.
201-23.104-5 Commercial ADP services.
201-23.104-6 Commercial ADP support services.
201-23.105 Specific agency or agency component blanket delegation of procurement authority.
201-23.106 Specific acquisition delegation of procurement authority.
201-23.106-1 Agency procurement request (APR) submissions.
201-23.106-2 Alternate APR submission requirements.
201-23.107 GSA action on agency APR submissions.
201-23.108 [Reserved]
201-23.109 [Reserved]
201-23.110 [Reserved]
201-23.111 GSA contracting for specific APR requirements.
201-23.111-1 Requiring agency responsibilities.
201-23.111-2 GSA responsibilities.
201-23.112 Federal agency responsibility when procurement authority is delegated by GSA.
201-23.112-1 Agency responsibility.
201-23.112-2 GSA review of agency acquisition actions.

Subpart 201-23.2—Automatic Data Processing (ADP) Fund

201-23.200 [Reserved]
201-23.201 Use of the ADP Fund for purchase of ADP items.
201-23.202 Use of the ADP Fund for GSA-operated FDPCs.
201-23.203 Use of the ADP Fund for reuse of ADPE.

Subpart 201-23.3—Authority to Proceed with Acquisition of Telecommunication Resources—[Reserved]

Subpart 201-23.4—Use of Exchange/Sale Authority—[Reserved]

Subpart 201-23.5—Use of Multi-year Contracting Authority

201-23.500 [Reserved]
201-23.501 Use of multi-year contracting authority for small telecommunication systems.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-23.000 Scope of part.

This part prescribes policies and procedures regarding the delegation of certain authorities by the Administrator of General Services to Federal agencies.

§ 201-23.001 General. [Reserved]

Subpart 201-23.1—Contracting Authority for ADP Resources

§ 201-23.100 Scope of subpart.

This subpart prescribes policies and procedures regarding the delegation of exclusive procurement authority for ADP resources under 40 U.S.C. 759 by the Administrator of General Services to Federal agencies.

§ 201-23.101 General. [Reserved]

§ 201-23.102 Responsibility for conduct and accountability of acquisitions made under delegation of contracting authority from GSA.

See Temp. Reg. 6.

§ 201-23.103 Procurement and contracting authority.

(a) See Temp. Reg. 6.

(b) See Temp. Reg. 6.

(c)(1) Federal agencies are required to comply with the provisions of the Government-wide ADP sharing program (see Part 201-31) before contracting for commercial ADP services or support services. Each GSA region operates an ADP sharing exchange to provide information and referrals. Information is likewise available concerning (i) prison-made and products of the blind and other severely handicapped (see FAR Subparts 8.6 and 8.7) and (ii) GSA-sponsored Federal Data Processing Centers (FDPC) offering specific or specialized ADP services or support services (see also § 201-30.018).

(2) GSA enters into commercial ADP services and support services contract arrangements that are available for Federal agency use. The major nationwide program for certain commercial ADP services, including related support services, is the Teleprocessing Services Program (TSP). Section 201-32.303-2 describes the scope of the TSP, including requirements for agency use. GSA has also established ADP support services contracts that are available for use by agencies only within specified geographic regions and require the prior establishment of agency/GSA regional memoranda of understanding regarding use. Information concerning these contracts is available from GSA regional offices.

(d) Agency procurement request (APR) submissions to GSA are not required when an agency intends to exercise a renewal option within the system life of a previous authorization.

§ 201-23.104 Blanket regulatory delegations of procurement authority.

§ 201-23.104-1 Automatic data processing equipment (ADPE).

See Temp. Reg. 6.

§ 201-23.104-2 Software.

See Temp. Reg. 6.

§ 201-23.104-3 Maintenance services.

See Temp. Reg. 6.

§ 201-23.104-4 Related ADPE supplies.

Agencies may contract for related ADPE supplies without prior approval of GSA when specific purchase programs established by GSA have been considered and determined to be inapplicable (see § 201-32.208).

§ 201-23.104-5 Commercial ADP services.

(a) See Temp. Reg. 6.

(b) See Temp. Reg. 6.

(c) When the value of the procurement exceeds the thresholds set forth in paragraph (a) of this section, including instances when a value previously estimated below the thresholds subsequently exceeds them, the agency shall submit an APR in accordance with § 201-23.106.

(d) See Temp. Reg. 1, Supp. 1.

§ 201-23.104-6 Commercial ADP support services.

Agencies do not require GSA approval to contract for commercial ADP support services. However, agencies shall comply with requirements regarding the sharing (see § 201-23.103(c)(1)) or use of existing Federal ADP resources or sources of supply.

§ 201-23.105 Specific agency or agency component blanket delegation of procurement authority.

See Temp. Reg. 6.

§ 201-23.106 Specific acquisition delegation of procurement authority.

See Temp. Reg. 5.

§ 201-23.106-1 Agency procurement request (APR) submissions.

(a) *APR for ADP Equipment.* The APR shall include, as applicable—

(1) A copy of the proposed solicitation document, if available. If the solicitation document is not available, the functional specifications or the ADPE configuration that is to be acquired shall be included. Unless a functional specification is provided, the description should reflect the estimated number of central processing units, storage devices and controllers, terminals, other peripheral devices, and communications devices.

(2) A statement providing the estimated budgeted value of the

procurement in the agency's request to OMB, whether these funds were implicitly or explicitly described, and the fiscal year of the budget request.

(3) Estimated system or item life (see § 201–30.008) and estimated system or item life cost.

(4) Location (city and state) of the data processing facilities involved.

(5) Fiscal quarter during which the solicitation is expected to be released to industry for procurement action.

(6) Unique software, maintenance, and support requirements, if any.

(7) A statement or other evidence that indicates that a performance evaluation has been made for the currently installed ADP system(s), when applicable, to ensure that the proposed procurement represents the lowest overall cost alternative for meeting the agency's data processing need (see § 201–34.002).

(8) Evidence that site construction/modification is, or is not, required (see FPMR § 101–17.101–5). One of the following statements shall be used for this purpose:

(i) The acquisition of this equipment will not require site construction or modification by GSA; or

(ii) The acquisition of this equipment will require site (construction) (modification) by GSA which must be completed by (date); notification and information, as applicable, (has been) (will be) submitted to GSA on (date).

(9) A statement that the need to acquire ADPE or ADP systems has been documented as required by § 201–30.007.

(10) A statement that, as Parts 201–31 and 201–33 require, available ADP resources have been screened and no ADP resources are available to satisfy the user's requirements.

(11) A justification, if applicable, to support a contemplated noncompetitive (sole source) procurement (including use of specific make and model purchase description). Specifically, this justification must address:

(i) The intended use or application of the equipment;

(ii) The critical installation schedule(s) or unique features and/or mandatory requirements, dictated by the intended use, that limit the acquisition to a single source or supply or a specific make and model. [The overriding necessity of these competition-limiting requirements shall be clearly identified.];

(iii) The fact that no other known or probable source of supply exists for the required equipment, if a noncompetitive (sole source) procurement is contemplated. [The justification also shall elaborate on the steps taken which led to this conclusion.];

(iv) The existence of patent, copyright, or other limitations; and

(v) The practical factors which preclude the development of specifications and/or the requirement for competition (see definition of "competitive requirement" in § 201–2.001).

(12) Documentation, when telecommunications are involved (see § 201–39.006–4).

(13) One of the following statements regarding compliance with the Privacy Act of 1974:

(i) Equipment or services identified by this request will not be used to operate a system of records on individuals to accomplish an agency function;

(ii) Equipment or services identified by this request will be used to operate a system of records on individuals to accomplish an agency function. All applicable provisions of the Privacy Act have been complied with, including submitting a report of new systems to Congress and OMB on (date).

(14) A brief description of the primary agency program(s) that the equipment or services will support.

(15) Computer security requirements, where applicable, as certified by the responsible agency official (see Part 201–7).

(16) Software conversion study where applicable (see § 201–30.012–1).

(17) Findings to support the use of compatibility limited requirements where applicable (see § 201–24.207).

(b) *APR for ADP services.* The APR shall include, as applicable—

(1) *Agency information.* Agency name, address, names and telephone numbers of appropriate technical and contracting officials including the agency official assigned to conduct the procurement.

(2) *Project title and description.* (i) Name or designation of agency ADP resource system.

(ii) Description of the requirement that is to be procured. Indicate whether this is a new requirement, or an addition to or a modification of a current ADP service system.

(iii) Estimated system life (see § 201–30.008).

(iv) Estimated system life cost (see § 201–2.001 for definition).

(v) Location(s) (city and state) which require user access to the system.

(vi) Fiscal year and quarter during which the solicitation or requirements package is expected to be released to the private sector for procurement action.

(vii) Expected contract performance commencement date.

(3) *Procurement planning.* (i) Budgeted value of the procurement in the agency's request to OMB, indicating whether implicitly or explicitly described, including fiscal year(s) involved.

(ii) Summary description of the alternatives considered to meet the requirement, the related costs and the basis for the alternative selected with reference to the agency's requirements analysis and comparative cost analysis (see §§ 201–30.007 and 201–30.009, respectively).

(iii) If within TSP scope (see § 201–32.303–2), indicate contracting arrangement contemplated (MAS, B/A, or exception) and type (full, interactive, or remote batch). If exception to TSP see paragraph (b)(5), below.

(iv) Conclusions of performance evaluation for the currently installed or used ADP resource system, when applicable (see § 201–34.002).

(v) A statement that available ADP resources have been screened and none is available to satisfy the requirement (see Parts 201–31 and 201–33).

(vi) Documentation regarding telecommunications when applicable (see § 201–39.006–4).

(vii) Conclusions of software conversion study, when applicable (see § 201–30.012–1).

(4) *Procurement strategy.* (i) Description of conversion management planning actions (see § 201–30.012).

(ii) Type of specification or purchase description (see § 201–30.013).

(iii) The basis and documentation to support the use of compatability limited requirements, when applicable (see § 201–24.207).

(iv) The basis and documentation to support a contemplated noncompetitive (sole source) procurement, when applicable (see § 201–11.002–2). Specifically, the justification must address:

(A) The critical service or unique features or mandatory requirements, dictated by the intended use, that limits the procurement to a sole source [The overriding necessity of these competition limiting requirements shall be clearly identified.];

(B) The steps taken which led to the conclusion that no other known or probable source of supply exists for the required services; and

(C) The practical factors which preclude the development of specifications or the determination of the requirement in a form suitable for competition.

(v) The documentation to support a dedicated teleprocessing system strategy, when applicable (see § 201–32.303(b)(2)).

(vi) If within TSP scope (§ 201–32.303–2), source selection information, as follows:

(A) List of ADP service requirements (mandatory and evaluated optional features, if any);

(B) Other requirement elements to be evaluated;

(C) Summary description of the benchmark and the method for developing cost information from the benchmark results, or a description of how cost information will be determined if a benchmark is not used; and

(D) The method to be used for combining all cost elements to determine the lowest overall system life cost evaluation of the services contract portion.

(vii) If use of remote terminal emulation is to be a mandatory requirement, provide justification as set forth in § 201–24.214.

(5) *Exceptions or deviations.* Provide a statement that the agency has reviewed and complied with all applicable regulations. List those sections of the FIRMR and the use of standards that apply to this procurement that cannot or will not be met by the agency. Identify and justify deviations to the listed regulations that the agency desires or requires. If the exception is within the TSP scope, provide documentation required by § 201–32.303–3(e)(2).

(6) *Agency remarks.* Provide additional information concerning any of the above items or other special conditions associated with the procurement deemed necessary for understanding the APR.

(7) *Agency references.* Provide references to relevant past GSA authorizations, meetings, telephone discussions, etc.

(8) *Agency signature.* The APR shall be signed by an official who has been assigned to initiate the acquisition action and shall specify the title of the official who has been assigned to be responsible for the conduct of the procurement (see § 201–23.102). GSA will process only those submissions signed by authorized officials. Other submissions will be returned without action to the submitting office for resubmission by an authorized agency official.

(c) *Supplemental submissions.* If prior to award the requirement or any of the procurement planning or strategy elements of an APR change materially from data submitted in the APR, irrespective of whether before or after authorization is received from GSA to proceed, the agency shall promptly provide a supplementary APR submission to GSA containing pertinent information.

§ 201–23.106–2 Alternate APR submission requirements.

See Temp. Reg. 5.

§ 201–23.107 GSA action on agency APR submissions.

(a) After GSA review of an APR and the documentation submitted under §§ 201–23.106–1 or 201–23.106–2 (and subject to the right of the agency to determine its individual software, maintenance, and ADP services or equipment requirements, including the development of specifications for, and the selection of, the types and configurations of equipment needed), the GSA Assistant Administrator for Information Resources Management or designee will—

(1) Delegate to the agency the authority to conduct the contracting action;

(2) Delegate to the agency the authority to conduct the contracting action and provide for GSA participation in the contracting action with the agency to the extent considered necessary under the circumstances; or

(3) Provide for the contracting action by GSA or otherwise obtain the requirement on behalf of the agency.

(b) GSA will act within 20 workdays after receiving full information from an agency submitting an APR or supplemental APR data. To establish a common understanding of the 20 workday period, GSA will provide within this period written verification that identifies the date of receipt of an APR or supplemental APR data to the agency concerned. When the 20 workday period (plus 5 calendar days for mail lag) has expired, the agency concerned may proceed with the contracting action as though it had, in fact, received GSA authorization.

(c) If after review GSA finds that the APR does not contain the information required or that unusual circumstances surrounding the acquisition dictate that a longer appraisal period will be required, GSA will provide within the 20 workday period written notice to that effect including an estimate of the time required to complete the review. Under these circumstances the automatic authorization rule as set forth in paragraph (b), above, shall not apply.

(d) See Temp. Reg. 5.

(e) See Temp. Reg. 5.

§ 201–23.108 [Reserved]

§ 201–23.109 [Reserved]

§ 201–23.110 [Reserved]

§ 201–23.111 GSA contracting for specific APR requirements.

§ 201–23.111–1 Requiring agency responsibilities.

When GSA contracts for ADP items for another agency, the contracting effort is a joint endeavor of both the requiring agency and GSA. To preclude an overlap of functions, the responsibilities of each participant in the contracting effort are delineated with the requiring agency's functions listed in this § 201–23.111–1. (The functions of GSA are listed in § 201–23.111–2.) The requiring agency shall—

(a) Submit to GSA the documentation required by § 201–23.106–1. The documentation shall include the agency's requirements, the system/item life, the technical specification, if applicable, and the justification to support negotiated contracting;

(b) Prepare the technical portion of the solicitation document and define any unique requirements;

(c) Provide necessary technical personnel (and contracting personnel if the agency desires) as members of the contract negotiating team;

(d) Prepare the selection plan and submit it to the GSA contracting officer before issuance of the solicitation document;

(e) Evaluate proposals from a technical point of view and arrange for offerors' oral presentations, when appropriate;

(f) Provide copies of correspondence to the GSA contracting officer when the agency is authorized to communicate directly with offerors under the provisions of § 201–23.111–2;

(g) Determine the technical capability of the items offered to meet the requiring agency's requirements, technical specifications, and system/item life. This responsibility shall include the identification of those proposals that are, and those proposals that are not, technically acceptable/responsive. The results shall be transmitted to the GSA contracting officer for appropriate action with the offerors;

(h) Select the lowest overall cost item and transmit this information with the necessary supporting documentation to the GSA contracting officer. If a conclusive judgment cannot be made on the basis of lowest overall cost, price and other factors considered, a findings and determination to this effect shall be

prepared before any other factor is used as a basis for selection;

(i) Provide the following administrative information to the GSA contracting officer with the data required in paragraph (h) above—

(1) Finance data (e.g., paying office and fund citation);

(2) Contract distribution list and addresses; and

(3) Identity of assigned contracting officer within the requiring agency;

(j) Assist the GSA contracting officer when debriefings are requested by offerors;

(k) Place the delivery order, if applicable;

(l) Accomplish any other task not included above which will further the joint contracting objective or expedite completion of the contracting action at the agency's discretion and with GSA concurrence; and

(m) Administer the contract in accordance with the terms and conditions thereof.

§ 201-23.111-2 GSA responsibilities.

When contracting for ADP items for another agency in conjunction with the requiring agency's responsibilities in § 201-23.111-1, GSA will—

(a) Appoint the GSA contracting officer;

(b) Form the negotiating team which will be headed by the GSA contracting officer;

(c) Prepare and issue the solicitation document, and all amendments thereto after concurrence of the requiring agency (the technical material shall be supplied in final form by the requiring agency);

(d) Prepare the contracting plan (which will be coordinated with the requiring agency), the findings and determination, and any contractual material needed for the selection plan;

(e) Act as the point of contact between offerors and the Government. In this respect, the GSA contracting officer will provide the requiring agency's designated point of contact with a copy of all correspondence between the offerors and the Government. Correspondence going to offerors will be coordinated with the requiring agency. When appropriate, the GSA contracting officer may authorize direct communication between the offerors and the requiring agency on purely technical matters. In these instances, the requiring agency shall provide a copy of the correspondence to the GSA contracting officer;

(f) Receive proposals from the offerors;

(g) Provide copies of all proposals received from the offerors to the requiring agency;

(h) Review all offers from a contractual point of view;

(i) Provide personnel to be present at demonstrations to determine the technical capability of the items offered;

(j) Notify the offeror concerned when a proposal is determined to be unacceptable;

(k) Conduct negotiations with all offerors whose proposals are within the competitive range, price and other factors considered;

(l) Notify the offerors of the date and time that negotiations are to be terminated;

(m) Provide the requiring agency's designated point of contact with both a report which summarizes the results of negotiations and copies of the proposed contract negotiated with each vendor for consideration in the agency evaluation and analysis;

(n) Brief the appropriate requiring agency personnel on the results of contract negotiations when requested;

(o) Award the contract after receiving notification of the requiring agency's selection;

(p) Debrief offerors, with the assistance of requiring agency representatives, when debriefings are requested by offerors; and

(g) Distribute the contract and forward all pertinent documents to the successor contracting officer appointed by the requiring agency.

§ 201-23.112 Federal agency responsibility when procurement authority is delegated by GSA.

§ 201-23.112-1 Agency responsibility.

See Temp. Reg. 5.

§ 201-23.112-2 GSA review of agency acquisition actions.

See Temp. Reg. 5.

Subpart 201-23.2—Automatic Data Processing (ADP) Fund

§ 201-23.200 [Reserved]

§ 201-23.201 Use of the ADP Fund for purchase of ADP items.

When a lease/purchase evaluation indicates that it would be in the best interest of the Government to purchase rather than lease ADPE or commercially available software and funds are not readily available within the agency (e.g., when there is insufficient time to secure the necessary funds under normal budgetary procedures or to reprogram for the required funds), the matter shall be forwarded to GSA in the manner prescribed in § 201-32.102. When approved by GSA, the ADP fund may be used by agencies to obtain maintenance services for ADP leased from GSA through the ADP fund.

§ 201-23.202 Use of the ADP Fund for GSA-operated FDPCs.

Section 201-31.010-1 provides information regarding use of the ADP Fund in connection with FDPCs.

§ 201-23.203 Use of the ADP Fund for reuse of ADPE.

Section 201-33.009 provides information regarding use of the ADP Fund in connection with reuse of ADPE.

Subpart 201-23.3—Authority to Proceed with Acquisition of Telecommunication Resources—[Reserved]

Subpart 201-23.4—Use of Exchange/Sale Authority—[Reserved]

Subpart 201-23.5—Use of Multi-Year Contracting Authority

§ 201-23.500 [Reserved]

§ 201-23.501 Use of multi-year contracting authority for small telecommunication systems.

See Temp. Reg. 4.

PART 201-24—ACQUISITON POLICIES

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201-24.301 Authority to acquire telecommunication resources.
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201-24.305 Comparative cost analysis.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-24.000 Scope of part.

This part prescribes policies and procedures for the acquisition of automatic data processing (ADP) and telecommunications resources.

Subpart 201-24.1—General Acquisition Policies

§ 201-24.100 Scope of subpart.

This subpart prescribes policies and procedures that apply to both ADP and telecommunications acquisitions.

§ 201-24.101 Agency responsibilities.

ADP and telecommunications officials (see Parts 201-30 and 201-38) and procurement and contracting officials (see Parts 201-32 and 201-40) shall be responsible for the implementation of the policies and procedures of this Part 201-24. Agency accountability for the acquisition of ADP and telecommunications resources is assigned to the agency senior official designated by the agency head (see 44 U.S.C. 3506(c)(4) and §§ 201-20.001 and 201-21.001).

§ 201-24.102 Competition.

See Part 201-11.

§ 201-24.103 Small business and labor surplus concerns.

Requirements for information resources may be set-aside for award to small businesses, to the Small Business Administration (in accordance with section 8(a) of the Small Business Act), or to labor surplus area concerns. The provisions of FAR Parts 19 and 20 and implementing agency policy and procedures also apply.

§ 201-24.104 Small purchases.

See Temp. Reg. 1, Supp. 1.

§ 201-24.105 Major system acquisitions.

Major information resources systems to be acquired in accordance with the provisions of OMB Circular A-109 and agency implementing directives are subject to the FIRMR (see § 201-32.103).

§ 201-24.106 Urgent requirements.

The existence of a public exigency; i.e., the Government will suffer serious injury, financial or otherwise, if the equipment or services are not available by a specific date, shall not relieve the agency from the responsibility for obtaining maximum practicable competition (see Part 201-11).

Subpart 201-24.2—ADP Acquisition Policies

§ 201-24.200 Scope of subpart.

This subpart prescribes policies and procedures (in addition to those in Subpart 201-24.1) that have application to the acquisition of ADP resources.

§ 201-24.201 Authority to acquire ADP resources.

See Part 201-23.

§ 201-24.202 Severable ADP requirements.

(a) When the very subject matter of a contract is for something other than the acquisition of commercially available ADP items or services, but some of these items or services are to be delivered under the contract, the acquisition of the ADP items or services by the Government contractor is not subject to the FIRMR (see § 201-1.103). However, to ensure maximum practicable competition, agencies shall sever requirements for general purpose commercially available ADPE and ADP services and acquire them in accordance with the FIRMR when it is operationally feasible to do so and this action will promote economy and efficiency. Severable action shall be considered by an agency when—

(1) The ADPE or ADP service requirement is or can be identified as a separate line item;

(2) The value of the ADP portion exceeds $500,000;

(3) The items can be acquired by the Government and delivered to the contractor as required by the production schedule;

(4) Adequate price competition can be achieved on the severed ADP portion (see FAR 15.804-3(b));

(5) The expected cost reduction will exceed the added costs of acquisition; and

(6) Severing the ADPE and/or ADP services will not affect the contractor's ability and responsibility to perform as required by the provisions of the contract.

(b) The decision to sever ADP requirements shall be made before soliciting offers. When the ADP items or services are severed, a Government-furnished property clause shall be included in the solicitation document for the non-ADP items or services acquisition. When items are not severed, the Government contractor shall be required to identify the quantity and specific make and model of the ADP equipment that is delivered as part of the non-ADP system to facilitate the reuse of the ADP equipment.

§ 201-24.203 Furnishing ADP items and services to contractors.

(a) When the very subject matter of a contract is for something other then the acquisition of ADP items or services, and commercially available ADPE is to be incorporated into the non-ADP system or commercial ADP services are to be used in contract performance, the agency shall not require the contractor to acquire and manage the non-ADP system in accordance with the FIRMR (see § 201-1.103(b)(3)).

(b) Agencies shall sever requirements for general purpose commercially available ADP items or services from the overall requirement, acquire them in accordance with these regulations, and provide them as Government-furnished property or services to the contractor when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition.

(c) To facilitate the reutilization of ADPE, the Government contractor shall be required to identify the quantity and specific make and model of the ADPE that is delivered as a part of the non-ADP system.

(d) In those instances when ADP items or services are severed and acquired by the Government, care must be taken to ensure that the prime contractor's ability and responsibility to perform in accordance with the contract provisions are not disturbed.

§ 201-24.204 Government purchase option rights in contractor acquired ADP equipment.

(a) Notwithstanding the provisions of § 201-1.103, when leased ADPE is used on Government contract work and the total cost of leased ADPE is absorbed by the Government under a cost-reimbursement type contract, the contracting officer shall require the contractor to include a provision in the lease contract stating that the Government will have the right to exercise any purchase option and realize any other benefits earned through lease payments.

(b) When leased ADPE is used on Government contract work under a cost-reimbursement type contract and less than 100 percent of the cost of the equipment is absorbed by the Government, the contracting officer should obtain for the Government (where possible) the right to realize accrued purchase options credits if the contractor elects not to exercise the purchase option. Accordingly, agency negotiation objectives for cost-reimbursement type contracts shall include the following when less than 100 percent of the lease cost of the ADP equipment is absorbed by the Government:

(1) The encouragement of contractors to agree to the incorporation in the ADP equipment lease of a Government right to realize accrued purchase option credits;

(2) The obtaining, if possible, of a Government right of first refusal on accrued purchase credits if the contractor elects not to exercise the purchase option; and

(3) The providing of an advance notice of at least 60 days (120 days, if feasible) to the Government when the contractor proposes to terminate the ADP equipment lease if the Government has been granted rights to accrued purchase option credits.

(c) If the Government has been granted rights to purchase option credits in accordance with paragraph (b) of this section and the contractor elects not to exercise the purchase option, the ADPE shall be reported through agency or GSA reutilization channels as set forth in Part 201–33.

(d) If the Government elects to exercise an option to purchase the leased ADPE in accordance with paragraph (a) and (b) of this section, it is in the nature of an acquisition. Accordingly, the agency shall comply with the applicable provisions of the FIRMR relating to the acquisition of ADPE.

§ 201–24.205 Software contracting objectives.

When acquiring commercially available software, agencies shall strive to obtain the following objectives—

(a) Avoid restrictive clauses that limit the use of the software to a specific ADP system, installation, or organization;

(b) Incorporate a clause that will permit other Government agencies to obtain the software under the contract being negotiated;

(c) Obtain additional quantity discounts should any other Government agency acquire the same software under the contract in question; and

(d) Ensure that the contractor is obligated to support and maintain the software in subsequent years.

§ 201–24.206 [Reserved]

§ 201–24.207 Compatibility limited requirements.

(a) Compatibility limited requirements tend to restrict competition and, therefore, shall not be made mandatory requirements solely for reasons of economy or efficiency. When conversion costs are to be evaluated, the solicitation shall provide for the submission and evaluation of acceptable noncompatible offers from responsible offerors that will meet the user's requirement at the lowest overall cost, price and other factors considered.

(b) A statement of requirements for ADP equipment or services to augment or replace existing ADP equipment or services that is limited to ADP equipment or services compatible with the existing operating system and ADPE shall be—

(1) Supported by a software conversion study (see § 201–30.012–1);

(2) Justified on the basis of agency mission-essential data processing requirements and economy and efficiency; and

(3) Meet the requirements of this section.

(c) The following factors shall be considered in determining whether the incorporation of compatibility limited requirements is justified for the augmentation or replacement acquisition:

(1) The essentiality of existing software, without redesign, to meet agency critical mission needs. For example, the continuity of operations may be so critical that conversion is not a viable alternative.

(2) The additional risk associated with conversion if compatibility limited specifications are not used and the extent to which the Government would be injured, financially or otherwise, if the conversion to the new ADP system fails.

(3) The additional adverse impact of factors such as delay, lost economic opportunity, and less than optimum utilization of skilled professionals if compatibility limited specifications are not used.

(4) The steps being taken to foster competitive conditions in the augmentation or replacement acquisition (see § 201–30.012 and FAR 15.105).

(5) The off-loading of selected applications programs to commercial data processing service facilities as an alternative to conversion.

(6) The continuation of ADP services for selected application programs with the present commercial ADP services contractor as an alternative to conversion of all programs in the present ADP resource system.

(7) The extent of essential parallel operations; i.e., the need to continue operation of the old system in parallel with the new system until the new system can fully support the mission needs.

(8) The feasibility of competing conversion requirements to be performed on a guaranteed basis under a competitive solicitation that couples the conversion effort and ADP service in a single contract, including consideration of the basis for a calculation of liquidated-damages provisions for conversion performance failure.

(d) The findings that support the use of compatibility limited specifications shall be submitted with each agency procurement request (APR) (see §§ 201–23.106–1 and 201–23.106–2) for augmentation or replacement acquisition when the use of these specifications is contemplated.

§ 201–24.208 Evaluation of acquisition alternatives.

(a) Except as provided in paragraph (c) of this § 201–24.208, a comparative cost analysis shall be made to determine the method of acquisition that represents the lowest overall cost alternative over the system/item life. The alternatives that must be considered will vary, depending on the system/item being acquired and the requirement of the initial user. However, as a minimum, all of the following alternatives that will meet the user's needs shall be considered.

(1) Alternative methods of acquisition for ADPE:

(i) Purchase;

(ii) Lease to ownership (Funding statutes may preclude acceptance of some lease to ownership plans.);

(iii) Lease with option to purchase; and

(iv) Straight lease.

(2) Alternative methods of acquisition for proprietary software:

(i) Perpetual license to use;

(ii) License to use for extended term (i.e. more than 12 months); and

(iii) License to use on a monthly basis.

(3) Alternative methods of acquisition for ADPE maintenance services:

(i) On-site maintenance capability;

(ii) On-call maintenance; and

(iii) Time and materials.

(4) Commercial ADP services:

(i) Short-term resources used; and

(ii) Extended system life, resources used or dedicated.

(b) The present value of money factor, as set forth in OMB Circular A–94, shall be included in comparative cost analyses, not withstanding the A–94 stated exception. The single discount rate (currently 10 percent) specified in the OMB Circular represents the approximate long run opportunity cost of capital in the private sector. Under this methodology, payments over time are adjusted to reflect the present value of these payments as of the date of contract award. All expenses over the system/item life for equipment, software, maintenance, other support, and predetermined inhouse expenses for installation and operation must be adjusted.

(c) See Temp. Reg. 8.

§ 201-24.206-1 [Reserved]

§ 201-24.209 Dedicated ADPE or software alternatives in ADP services contracting.

When a solicitation requires or allows an offeror to propose the dedicated use of ADPE or software in the performance of ADP services, the offeror shall be required to (i) price the use of the dedicated equipment or software on a separate line-item basis and (ii) specify the interface requirements between the offeror's system and the dedicated items. The Government shall reserve the right to furnish the dedicated items to the successful offeror for use in the performance of the contract. The location of the dedicated items is immaterial, except that all ADPE or software located at Government-owned or -controlled sites and operated by the Government or Government contract employees shall be considered dedicated-use ADPE or software requiring the separate pricing and interface definition.

§ 201-24.210 Exercising renewal options in ADP services contracts.

Before exercising any renewal options, including those on a TSP basic agreement (BA) or MAS system life selection, the agency shall conduct an analysis to determine whether exercising the renewal option is the most advantageous method of fulfilling the Government's need, price and other factors considered. Agency acquisition files shall be documented with the results of the evaluation.

§ 201-24.211 Use of functional specifications.

Functional specifications are the preferred method of expressing the user's requirements in solicitation documents. The functional specification may be augmented with equipment characteristics and elements of performance when necessary to reflect the user's needs (see also §201–30.013.)

§ 201-24.212 Use of other types of specifications or purchase descriptions.

If functional specifications cannot be used to describe the user's complete requirement, other types set forth below may be used. However, to minimize limitations on competition, other types of specifications or purchase descriptions shall be used in the following order of precedence:

(a) Equipment performance specifications (see § 201–2.001 for definition).

(b) Software and equipment plug-to-plug compatible functionally equivalent purchase descriptions.

(c) Brand name or equal purchase descriptions.

(d) Specific make and model purchase descriptions. This type of purchase description limits competition. Its use is considered to be a noncompetitive (sole-source) requirement and must be justified.

§ 201-24.213 Restrictions on the use of simulation in ADP system acquisitions.

(a) Data structured for simulation purposes shall not be used as the only means of describing data processing requirements in solicitation documents. Simulation data shall be accompanied by a narrative description of the ADP objectives and workload and any available application logic diagrams.

(b) Solicitation documents shall not be structured in such a way as to require offerors to use a specific computer system simulator in order to submit their offers. When offerors submit computer simulation as part of their offers, they shall be required to describe clearly the simulation used and the make and model of the computer on which the simulation was tested.

(c) Offers should not be considered nonresponsive or unacceptable solely on the basis of simulation results.

(d) Procedures for ADP simulation and computer performance evaluation services are described in § 201–34.002–1.

§ 201-24.214 Use of remote terminal emulation in ADP equipment system and ADP services acquisitions.

(a) *Equipment systems.* (1) Each agency shall determine whether or not to require mandatory use of remote terminal emulation during each ADP equipment system procurement. An agency should study the GSA Handbook, "Use and Specifications of Remote Terminal Emulation in ADP System Acquisition," before making the determination.

(2) When an agency requires the mandatory use of remote terminal emulation during an ADP equipment system contracting action, the agency—

(i) Shall follow all mandatory procedures contained in the GSA Handbook;

(ii) Shall not require remote terminal emulation capabilities that are not explicitly defined in the GSA Handbook;

(iii) May declare an offer unacceptable in a negotiated contracting action if the offeror fails to provide the remote terminal emulation capabilities required by the solicitation; and

(iv) Shall not require an offeror to conduct a benchmark test using remote terminal emulation at the agency's site.

(b) *Services.* (1) Agencies shall not require the mandatory use of remote terminal emulation in ADP services contracting actions, except for—

(i) Dedicated teleprocessing requirements; or

(ii) Unusually large and complex shared teleprocessing requirements.

(2) Agencies desiring to make the use of remote terminal emulation mandatory in the acquisition of ADP services shall identify and justify to GSA the need for the use of the contemplated remote terminal emulation. This information will be provided along with the submission of the APR, when applicable.

(c) *Deviation.* Any agency desiring to deviate from the policy defined in paragraphs (a)(2) and (b)(2) of this section shall request, before the issuance of the solicitation documents, authority from GSA, under Subpart 201–1.4 procedures, to deviate.

(1) To request a deviation authority, an agency shall submit to the General Services Administration (KMA), Washington, DC 20405, a detailed technical description and justification for each specific deviation desired.

(2) When granted authority to deviate, an agency shall provide promptly to potential offerors detailed instructions specifying all mandatory remote terminal emulation capabilities not defined in the GSA Handbook and the manner in which each emulation benchmark test must be conducted. A notice indicating the availability of these materials shall be published in the Commerce Business Daily (CBD) at least 60 calendar days before the release of the solicitation document.

(d) *Handbook.* The GSA Handbook, "Use and Specifications of Remote Terminal Emulation in ADP System Acquisition," has been prepared to provide guidance to Federal agencies in designing and conducting remote terminal emulation benchmark tests.

The Handbook summarizes introductory concepts and terminology of benchmarking and remote terminal emulation, describes when and how agencies should use remote terminal emulation, and specifies the remote terminal emulation capabilities that an agency may require offerors to provide for testing ADP systems during acquisition. Copies of the GSA Handbook are available upon written request to the General Services Administration (KED), Washington, DC 20405.

§ 201-24.215 Use of benchmarks in low-dollar ADP equipment system acquisitions.

(a) Solicitations involving low-dollar-value contracting actions generally shall not require benchmarks if performance can be validated by some other means. When the use of benchmarks is necessary, solicitations shall not require the running of "worst case" benchmark programs (e.g., programs that require extensive reprogramming or conversion) unless these programs are representative of the using agency's data processing needs.

(b) Mandatory benchmarks shall not be used, however, in solicitations for ADP systems with a purchase value of less than $300,000 unless the using agency determines that there is no other acceptable means of validation.

(c) For ADP systems with a purchase value of $300,000 or less, the following validating methods shall be considered:

(1) Validation of performance by the technical evaluation of proposed ADPE and software; and

(2) Evaluation of an operational ADP installation processing a similar workload on comparable equipment.

§ 201-24.216 Award criteria for low cost ADP equipment acquisitions.

See Temp. Reg. 6.

Subpart 201-24.3—Telecommunication Acquisition Policies

§ 201-24.300 Scope of subpart.

This subpart prescribes policies and procedures (in addition to those in Subpart 201-24.1) that have application to the acquisition of telecommunication resources.

§ 201-24.301 Authority to acquire telecommunication resources.

See § 201-38.014.

§ 201-24.302 [Reserved]

§ 201-24.303 [Reserved]

§ 201-24.304 Use of functional specifications.

See Temp. Reg. 4.

§ 201-24.305 Comparative cost analysis.

See Temp. Reg. 4.

15. Part 201-25 is added and reserved to read as follows:

PART 201-25—[RESERVED]

16. Part 201-26 is added to read as follows:

PART 201-26—REPORTING REQUIREMENTS

Sec.

201-26.000 Scope of part.

Subpart 201-26.1—Integrated Reporting Requirements

201-26.100 Scope of subpart.

Subpart 201-26.2—Automatic Data Processing Equipment Data System (ADPE/DS)

201-26.200 Scope of subpart.
201-26.201 Effect on other directives.
201-26.202 Policy intent.
201-26.203 Applicability.
201-26.204 Policies and procedures.
201-26.205 Responsibilities.
201-26.206 Reporting requirement.

Authority: Sec. 205(c), 63, Stat. 390; 40 U.S.C. 486(c)

§ 201-26.000 Scope of part.

This part provides (a) in Subpart 201-26.1, a listing of reporting or data submission requirements described elsewhere in the FIRMR which are integrated with other regulatory provisions regarding specific functional activities or specific subjects and (b) in the other subparts of this Part 201-26, specific reporting requirements that are not described elsewhere in the FIRMR. The intent is to provide a convenient means to assist FIRMR users and information activities officials in managing reporting requirements.

Subpart 201-26.1—Integrated Reporting Requirements

§ 201-26.100 Scope of subpart.

This subpart lists reporting and submission requirements that are integrated with the regulatory provisions of the various functional areas or activities addressed elsewhere in the FIRMR. [Listings reserved]

Subpart 201-26.2—Automatic Data Processing Equipment Data System (ADPE/DS)

§ 201-26.200 Scope of subpart.

See Temp. Reg. 8.

§ 201-26.201 Effect on other directives.

See Temp. Reg. 8.

§ 201-26.202 Policy intent.

See Temp. Reg. 8.

§ 201-26.203 Applicability.

See Temp. Reg. 8.

§ 201-26.204 Policies and procedures.

See Temp. Reg. 8.

§ 201-26.205 Responsibilities.

See Temp. Reg. 8.

§ 201-26.206 Reporting requirement.

See Temp. Reg. 8.

17. Parts 201-27, 201-28, and 201-29 are added and reserved to read as follows:

PART 201-27—[RESERVED]

PART 201-28—[RESERVED]

PART 201-29—[RESERVED]

SUBCHAPTER D—INFORMATION RESOURCES OPERATIONS

18. Parts 201-30, 201-31, 201-32, 201-33, and 201-34 are added to read as follows:

PART 201-30—MANAGEMENT OF ADP RESOURCES

Sec.

201-30.000 Scope of part.
201-30.001 General. [Reserved]
201-30.002 Planning.
201-30.003 Controlling and reviewing.
201-30.004 Privacy.
201-30.005 Security.
201-30.006 Standards.
201-30.007 Determination of need and requirements analysis.
201-30.007-1 Records management factors.
201-30.008 Determination of system/item life.
201-30.009 Analysis of alternatives for satisfying a requirement.
201-30.009-1 Analysis for low value acquisitions.
201-30.009-2 [Reserved]
201-30.010 Sharing.
201-30.011 Reuse of ADP equipment.
201-30.012 Conversion planning and management responsibilities.
201-30.012-1 Software conversion studies.
201-30.012-2 Determination of conversion costs.
201-30.013 Specifications and purchase descriptions.
201-30.014 Competition.
201-30.015 Delegation of procurement authority.
201-30.016 Acquisition policies.
201-30.017 Contracting.
201-30.018 GSA support programs.
201.30.018-1 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).
201.30.018-2 Federal Conversion Support Center (FCSC).
201.30.018-3 Federal Software Testing Center (FSTC).

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-30.000 Scope of part.

This part prescribes policies and procedures for the management of automatic data processing (ADP) resources.

§ 201-30.001 General. [Reserved]

§ 201-30.002 Planning.

Agencies shall follow applicable provisions of Part 201-16 in the management of ADP resources.

§ 201-30.003 Controlling and reviewing. [Reserved]

§ 201-30.004 Privacy.

Agencies shall follow applicable provisions of Part 201-6 in the management of ADP resources.

§ 201-30.005 Security.

Agencies shall follow applicable provisions of Part 201-7 in the management of ADP resources.

§ 201-30.006 Standards.

Agencies shall follow applicable provisions of Part 201-8 in the management of ADP resources.

§ 201-30.007 Determination of need and requirements analysis.

See Temp. Reg. 8.

§ 201-30.007-1 Records management factors.

See Temp. Reg. 8.

§ 201-30.008 Determination of system/item life.

(a) Except as provided in paragraph (c) of this § 201-30.008, the Government system/item life shall be established by the initial acquiring agency as a part of each requirements analysis. This life shall be used in the evaluation to determine the lowest overall cost offer and whether purchase, lease to ownership, lease with option to purchase, or straight lease is the lowest cost method of acquisition for the Government. The following factors shall be considered in determining the Government system/item life:

(1) The period of time that the system/item, plus any planned augmentation, will satisfy the needs of the initial user (If augmentation other than those provided for in the initial acquisition are necessary, consideration should be given to establishing a new system/item life.);

(2) The rate at which technology is expected to advance;

(3) The probability that support will continue to be available beyond the period of intended use by the initial user. This support includes items such as maintenance, spare parts, software support, etc.; and

(4) The probability that the system/item in its ultimate planned configuration will be reused by another component within the agency or another Federal agency once the equipment no longer meets the needs of the initial user. The estimated number of months, if any, of contemplated use by a secondary user will be added to the initial user's requirement to determine the Government system/item life.

(b) If the acquiring agency cannot predict reuse, either within that agency or by another Federal agency, the initial user's system/item life shall be the Government system/item life.

(c) See Temp. Reg. 8.

§ 201-30.009 Analysis of alternatives for satisfying a requirement.

See Temp. Reg. 8.

§ 201-30.009-1 Analysis for low value acquisitions.

See Temp. Reg. 8.

§ 201-30.009-2 [Reserved]

§ 201-30.010 Sharing.

Agencies shall follow applicable provisions of Part 201-31 in the management of ADP resources.

§ 201-30.011 Reuse of ADP equipment.

Agencies shall follow applicable provisions of Part 201-33 in the management of ADP resources.

§ 201-30.012 Conversion planning and management responsibilities.

Conversion from one computer architecture and operating system software to another is a recurring and costly activity. Frequently, moving a particular ADP system workload to a noncompatible ADP system is so costly as to be a major impediment to effective competition by the noncompatible offeror. However, proper management of an agency's software inventory and planning for future conversions will reduce the risk and cost of conversion, enhance competition, and improve the efficiency of ADP operations.

(a) Federal ADP managers and contracting officers share the responsibility for ensuring that data processing requirements are met at the lowest overall cost, price and other factors considered. This responsibility extends to those actions necessary to foster competition for subsequent acquisitions. To achieve this objective, ADP managers shall take necessary action to minimize the cost of conversion to future replacement ADP systems. Although the configuration and date of acquisition of the replacement system may not be known, several steps can and should be taken to reduce both the risk and cost of conversion.

(b) The following are examples of management and planning actions that ADP managers should take to facilitate future conversions:

(1) Purge from the active inventory all software and data bases not essential to meet agency needs.

(2) Identify relevant characteristics of all application software: e.g., programming language, number of source statements or lines of code, type and size of records and data files, and security provisions.

(3) Use only software design and documentation techniques that minimize future software conversion to develop new application software.

(4) Use Federal standard or other American National Standards Institute (ANSI) standard higher level languages to the maximum practicable extent in developing all new user application software. Document agency files with the justification for using nonstandard languages at the time the waiver is granted.

(5) Avoid the use, where possible, of implementor-defined features and vendor-supplied nonstandard extensions in higher level language compilers. Where it is necessary to use these features and nonstandard extensions, document agency files to support their use and retain the documentation to manage the software during its system life.

(6) Use to the maximum practicable extent data base management systems (DBMS) supported by, and that will run on, equipment offered by multiple manufacturers of different product lines of ADPE (i.e., other than plug-to-plug compatible equipment) or designed to conform to the Conference on Data Systems Languages (CODASYL) specifications. Where it is not possible to use such a DBMS, document agency files to support this decision and retain the documentation to manage the DMBS during its system life.

(7) Write application software requiring software redesign in Federal standard or other ANSI standard higher level languages, unless the use of assembly or other languages is clearly justified on the basis of operational requirements or demonstrable economy and efficiency. Document agency files with the justification for using nonstandard languages at the time the waiver is granted and retain the documentation to manage the application software during its system life.

(8) Rewrite application software written in assembly or other

nonstandard languages but not requiring redesign in Federal standard or other ANSI standard higher level languages to foster competition for subsequent acquisitions to the maximum practicable extent.

(9) Review, revise, and update as necessary documentation for all existing applications to reduce the risk and cost of future conversions.

(10) Evaluate all feasible alternative courses of action for meeting agency data processing needs before ADPE is acquired on a sole source, specific make and model, or compatible basis, since these types of purchase descriptions limit the competitiveness of the acquisition.

(c) The useful life of application software is limited by changes in data processing requirements, operating system software, and equipment technology. Generally, the life expectancy of this software, without redesign or reprogramming, is in the range of 5 to 10 years. Accordingly, the updating of application software for these reasons must be reckoned with, regardless of whether these programs are converted from one ADP system architecture to another. These technology-updating activities should be identified and managed separately from coversion activities.

§ 201-30.012-1 Software conversion studies.

(a) Software conversion studies shall be performed for all acquisitions to ensure that the user's needs are met at the lowest overall cost, price and other factors considered, including the cost and other factors associated with coversion activities. The provisions of § 201-30.012-2 apply. However, a software conversion study is not required when one of the three following conditions exist—

(1) Initial acquisition where no software exists;

(2) Contracting for computer peripherals only; or

(3) Exercise of purchase option under a leasing agreement.

(b) Studies for acquisitions below the thresholds stated in paragraph (c) of this § 201-30.012-1 shall be based on Government estimates determined in accordance with agency procedures. The acquisition file shall be documented to record the estimates and the method of computation. The extent of the study will be based on the circumstances of the particular situation as determined by the agency.

(c)(1) A comprehensive software conversion study shall be made for each augmentation or replacement ADPE or ADP services acquisition when either of the following conditions exists—

(i) The estimated purchase price of the equipment system or estimated system life cost of the ADP services is expected to exceed $2.5 million; or

(ii) The cost of conversion is to be used as the primary justification for a compatibility-limited requirement when the estimated value of the acquisition exceeds $300,000.

(2) A comprehensive software conversion study means an analysis of a conversion requirement that as a minimum includes the following:

(i) Problem definition.

(ii) Inventory of system components for the current system.

(iii) Description of the operating system environment.

(iv) Inventory of application programs and data files to be converted.

(v) Alternative acquisition approaches (including compatible and noncompatible, as appropriate) with schedules for both the contracting and conversion effort.

(vi) General description of the target environment including hardware and system software, performance requirements, and constraints or limitations, dictated by the user needs, on the functional definition of the requirement.

(vii) Recommended approach to accomplish the conversion tasks including analyses of alternative approaches with an economic and benefit analysis for each approach.

(viii) Specific agency actions to be taken to reduce the cost and risk of future conversions.

(3) An agency may elect to conduct its own comprehensive software conversion study, use contractual resources to accomplish the study, or request the GSA Federal Conversion Support Center (FCSC) to perform the study.

(d) All software conversion studies shall be maintained in agency files and be available for GSA review at the time the agency submits an agency procurement request (APR) to GSA.

§ 201-30.012-2 Determination of conversion costs.

(a) Costs directly related to the conversion from the installed ADPE, software, data bases, files, and telecommunications software to the replacement system and project management costs shall include, but are not limited to the following:

(1) Conversion of the following software by reprogramming, recoding, or translation:

(i) Existing software written in Federal standard or other ANSI standard higher level language.

(ii) Application software written in assembly or other nonstandard languages that will continue to meet essential agency mission needs without redesign, provided the continued use of the nonstandard software can be justified and the file is documented with the justification prior to incorporating into the software conversion study.

(iii) Mission-essential application software to be developed for operational use before the augmentation or replacement ADPE and operating system software is installed (or before commercial ADP services are acquired), provided the software is written in Federal standard or other ANSI standard higher level languages.

(2) Conversion of data bases, data base design changes, and DBMS systems to the extent necessary to permit the continued use of existing application software.

(3) Firmware required solely to permit the continued use of application software.

(4) Site preparation and modifications to installed environmental controls.

(5) Parallel operation of the old system during the conversion process, including offsite data processing support.

(6) Travel and training expenses, including pay and fringe benefits of Government employees during attendance at formal classroom training courses.

(7) Other general or user expenses directly related to the conversion effort; e.g., conversion planning, preparation, and management; supplies; and any additional general-purpose software required to support the conversion.

(b) The costs incurred for the redesign of application software in technology updating are not bona fide conversion costs, and they shall not be evaluated for the purpose of determining the lowest total overall cost offer/bid. These technology updating costs include:

(1) The conversion of existing software and data bases which are to be redesigned;

(2) Purging duplicate or obsolete software, data bases, and files;

(3) Development of documentation for existing application software; and

(4) Improvements in management and operating procedures.

(c) Standard cost factors, such as those contained in the OMB Cost Comparison Handbook (Supplement No. 1 to OMB Circular A-76), shall be used to the maximum practicable extent in

preparing conversion cost studies and estimates. These cost factors may be supplemented by industry- or agency-developed cost factors, as necessary.

§ 201-30.013 Specifications and purchase descriptions.

Agencies shall design specifications and purchase descriptions describing Government requirements to promote competition to the maximum practicable extent from manufacturers, leasing companies, third-party vendors, and ADP services contractors. Functional specifications maximize competition and are the preferred method for expressing the user's requirements (see § 201-24.211 and definition of "functional specification" in § 201-2.001). Functional specifications may be augmented with equipment characteristics and performance criteria as necessary to accurately reflect the user's needs (see § 201-24.212). If functional specifications cannot be used, other types of specifications or purchase descriptions shall be used in the following order of precedence:

(a) Equipment performance specifications (see § 201-2.001 for definition).

(b) Software and equipment plug-to-plug compatible functionally equivalent purchase descriptions.

(c) Brand name or equal purchase descriptions.

(d) Specific make and model purchase descriptions. Use of specific make and model purchase descriptions must be justified (see § 201-24.212(d) and definition of "noncompetitive (sole-source) requirement" in § 201-2.001).

§ 201-30.014 Competition.

Agencies shall follow applicable provisions of Part 201-11 in the management of ADP resources.

§ 201-30.015 Delegation of procurement authority.

Agencies shall follow applicable provisions of Part 201-23 in the management of ADP resources.

§ 201-30.016 Acquisition policies.

Agencies shall follow applicable provisions of Part 201-24 in the management of ADP resources.

§ 201-30.017 Contracting.

Agencies shall follow applicable provisions of Part 201-32 in the management of ADP resources.

§ 201-30.018 GSA support programs.

§ 201-30.018-1 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).

The Federal Computer Performance Evaluation and Simulation Center provides technical assistance, support, and services on a reimbursable basis to Federal agencies for simulation, analysis, and performance evaluation of ADP systems. FEDSIM shall be considered as a source of supply for these services. It is operated by the Department of the Air Force under delegation from GSA. See § 201-34.002-1 for applicable provisions. Agencies should contact the FEDSIM for further information, telephone (703) 274-8065.

§ 201-30.018-2 Federal Conversion Support Center (FCSC).

The Federal Conversion Support Center is the primary resource for software conversion technology within the Federal Government. It is operated by GSA to provide Federal agencies with specialized technical and contracting expertise, techniques, and tools to plan conversion studies and accomplish software conversions. It provides these services to Federal activities on a reimbursable basis. Agencies should contact the FCSC for further information, telephone (703) 756-6156 or FTS, 756-6156. Address: General Services Administration, Federal Conversion Support Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041.

§ 201-30.018-3 Federal Software Testing Center (FSTC).

The Federal Software Testing Center validates compilers which are acquired by or are utilized in the performance of ADP services in the Federal Government. It is operated by GSA. The validation tests determine whether the compiler being tested implements the elements of the Federal processing standard language to which the compiler relates (see § 201-8.109). Agencies should contact the FSTC for further information, telephone (703) 756-6153 or FTS, 756-6153. Address: General Services Administration, Federal Software Testing Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041.

PART 201-31—SHARING OF ADP RESOURCES

Sec.

201-31.000 Scope of part.
201-31.001 Relationship to management policy.
201-31.002 ADP sharing considerations.
201-31.003 Government-wide ADP sharing.
201-31.004 ADP sharing procedures.
201-31.005 ADP sharing exceptions and exemptions.
201-31.006 Reporting of sharing and services obtained from a commercial source.
201-31.007 [Reserved]
201-31.008 [Reserved]
201-31.009 [Reserved]
201-31.010 Federal Data Processing Centers (FDPCs).
201-31.010-1 General.
201-31.010-2 Services available from FDPCs.
201-31.010-3 Points of contact.
201-31.010-4 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).
201-31.011 [Reserved]
201-31.012 ADP collocation and consolidation program.
201-31.012-1 Objectives.
201-31.012-2 Intra-agency collocation or consolidation actions.
201-31.012-3 Interagency collocation or consolidation actions.
201-31.012-4 Action when mutual agreement is not reached.
201-31.012-5 Implementation of a decision to collocate or consolidate.
201-31.012-6 Review of a collocated or consolidated facility.
201-31.013 [Reserved]
201-31.014 Federal Software Exchange Program.
201-31.014-1 Common-use Software.
201-31.014-2 Program operation and policy guidance.
201-31.014-3 Program objectives.
201-31.014-4 Services performed by the Federal Software Exchange Center.
201-31.014-5 Agency actions.
201-31.014-6 Arrangements and guidelines for use of the Federal Software Exchange Program.
201-31.014-7 Effect on the software acquisition process.
201-31.014-8 Forms availability.
201-31.014-9 Federal Software Exchange Catalog availability.
201-31.014-10 Federal Software Exchange Program review.
201-31.014-11 Assistance by GSA.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-31.000 Scope of part.

This part prescribes policies and procedures for the sharing of ADP resources.

§ 201-31.001 Relationship to management policy.

As provided in § 201-20.006, agencies are required to consider sharing and use of existing ADP resources as an economical and efficient means of meeting their ADP needs.

§ 201-31.002 ADP sharing considerations.

See Temp. Reg 7.

§ 201-31.003 Government-wide ADP sharing.

See Temp. Reg. 7.

§ 201-31.004 ADP sharing procedures.

See Temp. Reg. 7.

§ 201-31.005 ADP sharing exceptions and exemptions.

See Temp. Reg. 7.

§ 201-31.006 Reporting of sharing and services obtained from a commercial source.

See Temp. Reg. 7.

§ 201-31.007 [Reserved]

§ 201-31.008 [Reserved]

§ 201-31.009 [Reserved]

§ 201-31.010 Federal Data Processing Centers (FDPCs).

§ 201-31.010-1 General.

See Temp. Reg. 7.

§ 201-31.010-2 Services available from FDPC's.

See Temp. Reg. 7.

§ 201-31.010-3 Points of contact.

(a) See Temp. Reg. 7.

(b) Agencies desiring assistance in the performance of general systems studies, as defined in FPMR 101-11.1004, may request such assistance from the General Services Administration (KFM), Washington, DC 20405, telephone (202) 535-7443 or FTS, 535-7443.

§ 201-31.010-4 Federal Computer Performance Evaluation and Simulation Center (FEDSIM).

Information concerning the Federal Computer Performance Evaluation and Simulation Center is contained in § 201-34.002-1.

§ 201-31.011 [Reserved]

§ 201-31.012 ADP collocation and consolidation program.

§ 201-31.012-1 Objectives.

The objectives of the ADP collocation and consolidation program are to reduce the cost, enhance the effectiveness, and improve the efficiency of Government data processing operations affected by this § 201-31.012-1 through—

(a) Reviewing the requirements for additional Government ADP units and satisfying the need for such requirements by using more fully the resources or units already in existence;

(b) Consolidating installations which are geographically separated by means of telecommunications networks; and

(c) Increasing utilization of the resources committed to Government data processing by replacing a number of installations with a FDPC or a joint-use facility.

§ 201-31.012-2 Intra-agency collocation or consolidation actions.

(a) Actions by Federal agencies shall include—

(1) Continually reviewing their internal ADP operations to determine whether optimum economy, effectiveness, and efficiency are being achieved;

(2) Conducting studies to ascertain whether the collocation or consolidation of their ADP facilities or resources would be economically advantageous, would improve program effectiveness, or would increase efficiency of operations (in this connection, the factors shown in § 201-31.012-3(f) may be applied);

(3) Implementing findings which indicate collocation or consolidation to be feasible; and

(4) Notifying GSA of the estimated starting and completion dates of an in-house collocation or consolidation study to preclude undertaking by GSA of a related interagency study.

(b) When requested by an agency to participate, GSA actions will include—

(1) Providing assistance in the conduct of a feasibility study;

(2) Giving advice on implementation of an agency's decision to collocate or consolidate; and

(3) Coordinating within GSA an APR resulting from an intra-agency collocation or consolidation action and expediting approval of that APR.

§ 201-31.012-3 Interagency collocation or consolidation actions.

Interagency collocation or consolidation possibilities shall be considered when two or more Federal agencies have or plan to have ADP facilities or resources in the same building or adjacent buildings that are under the control of GSA.

(a) *Exemptions.* An ADP facility which is located in a classified site or which has ADPE dedicated to the real-time control of a physical process is exempt from the provisions of this § 201-31.012-3.

(b) *Study group.* A study of the feasibility of an interagency collocation or consolidation shall be conducted by a study group chaired by GSA and composed of representatives from GSA and the affected agencies.

(c) *Initiation of a feasibility study.* An interagency collocation or consolidation feasibility study may be initiated as the result of—

(1) An agency's request for assistance made to the appropriate GSA regional office or to General Services Administration (KMA), Washington, DC 20405;

(2) An agency's application for space to house a new computer installation or a substantial amount of additional space for an existing computer installation;

(3) Preparations for making a prospectus for a new Federal building;

(4) Submission of an APR (see § 201-23.106) for a computer system; or

(5) An agency's recommendation that such a study be made.

(d) *Conducting a feasibility study.* (1) GSA will inform affected agencies of a proposal to initiate an interagency feasibility study. A date for the study to begin will then be set by mutual agreement.

(2) GSA and affected agencies shall assign personnel to the study group.

(3) Salaries and any travel expenses of the study participants shall be paid by the employing agency.

(4) Costs incidental to a study, such as costs of supplies and duplicating services, will be borne by GSA.

(5) To the extent that circumstances permit and are applicable, the study group will consider concurrently the requirements for hardware/software, space, and site preparation.

(e) *Effect on acquisition process.* If studies are to be made but contracting actions are already in process or an APR has been submitted, GSA and the affected agencies shall determine on the basis of time and other factors whether the acquisition should be allowed to proceed pending completion of the study. If it is determined to proceed or not to defer an action already in process, the processing shall continue to a point short of an award with the understanding that the requirement will be canceled if collocation or consolidation is determined to be feasible unless the acquisition is needed for the new facility. However, if the planned installation date of an acquisition will be reached before the projected completion date of a study, GSA will accelerate the study sufficiently to insure that installation of equipment will not be deferred.

(f) *Determining feasibility.* The following factors shall be considered by the study group in determining the feasibility of a proposed interagency collocation or consolidation action.

(1) Impact of a collocation or consolidation arrangement on the ability of agencies to effectively and efficiently accomplish their missions;

(2) Provision of services which are responsive to priority and security requirements of the affected agencies;

(3) Comparison of costs of the separate facilities with applicable costs of the proposed facility for space, site preparation, moving, ADP equipment, communications equipment and services, transportation, data security and handling, staffing, and any other factor considered by the study group to be pertinent; and

(4) Potential for cost avoidance through increased opportunities for sharing ADP resources and through use

of centralized supply and maintenance services.

§ 201-31.012-4 Action when mutual agreement is not reached.

GSA and the affected agencies shall review the findings of the study group. In the absence of mutual agreement as to whether the findings indicate an interagency collocation or consolidation to be feasible, the dissenting agency shall be guided by the provisions of § 201-1.102-2(c).

§ 201-31.012-5 Implementation of a decision to collocate or consolidate.

(a) When a decision is made to establish an interagency collocated or consolidated ADP facility in GSA-controlled space, a task force shall be assembled to develop plans and provide for the implementation of the decision. GSA and each affected agency shall assign personnel to the task force.

(b) The task force shall submit implementing schedules, including schedules for needed interagency agreements, to GSA and to the affected agencies at the earliest possible time.

(c) GSA will provide the facilities required, including foreseeable expansion needs, to activate a collocated or consolidated facility.

(d) The provisions of the FIRMR shall apply to the acquisition of additional ADP hardware and related unbundled software needed to equip a collocated or consolidated facility. Acquisition shall be made by GSA or the affected agency through the transfer of excess property acquisition financed by the ADP Fund, and/or acquisition financed with appropriated funds of the affected agencies.

§ 201-31.012-6 Review of a collocated or consolidated facility.

(a) A review of an interagency collocated or consolidated facility shall be made after having been operational for a period of 12 months and annually thereafter if it is mutually considered by GSA and the affected agencies to be advisable. To the extent practicable, the review shall be made by the membership of the task force referred to in § 201-31.012-5.

(b) GSA or an affected agency may initiate a facility review. The initiating party shall notify the others of its opinion that a review appears to be in order and give the reasons therefor in writing. A mutually acceptable date shall then be set for beginning the review.

(c) If evaluation of the findings of a review discloses that no significant cost avoidance has been realized by the collocation or consolidation action, or that the efficiency of operations and/or the effectiveness of mission programs have been severely hampered or impaired, the services of the ADP facility may be discontinued or curtailed. In the event a decision is made to discontinue or curtail services, a date shall be agreed to by GSA and the affected agencies for cessation or limitation of services sufficiently in advance of the action to permit an orderly return to the previous operational status or to permit the development of alternative arrangements acceptable to all parties.

(d) In the instance of an intra-agency collocation or consolidation action taken under provisions of § 201-31.012-2, an agency may request GSA participation in a review and evaluation by contacting one of the offices identified in § 201-31.012-3(c)(1).

§ 201-31.013 [Reserved]

§ 201-31.014 Federal Software Exchange Program.

The Federal Software Exchange Program is administered by GSA's Federal Software Exchange Center (FSEC). The program promotes and administers the sharing of computer programs and related documentation. Common-use ADP software is reported by agencies to the FSEC. The FSEC facilitates the subsequent use of the information for Government-wide sharing of the software. No data files or data bases are included. No private or personal data will constitute any portion of the computer programs to be reported and exchanged by the FSEC. While the resources and aid of the FSEC will be extended to users in obtaining information concerning technical problems with software released through the FSEC, the ultimate responsibility for successful implementation of all programs rests with the user.

§ 201-31.014-1 Common-use software.

(a) The Federal Software Exchange Program is applicable to common-use software developed or revised by either Government or contractor personnel. It is not applicable to software that is classified, proprietary, or developed with revolving funds where reimbursement of all costs is required, such as the ADP Fund. It is not applicable to software to which the Government does not possess full rights of ownership.

(b) For the purpose of this § 201-31.014 common-use software is that which—

(1) Satisfies the definition in § 201-2.001, software term (k);

(2) Has been tested and proven operational for at least 90 days and is maintained by or for a Federal agency; and

(3) Is composed of stand-alone subroutines, programs, or subsystems; i.e., not dependent on special or unique hardware options or software features unless such options or features can be readily translated or simulated for hardware other than the original and can be similarly useful on different hardware.

§ 201-31.014-2 Program operation and policy guidance.

The Federal Software Exchange Program is operated by GSA or its authorized representative pursuant to the overall policy guidance and direction of GSA.

§ 201-31.014-3 Program objectives.

The objectives of the Software Exchange Program are to provide for the—

(a) Collection of common-use software information.

(b) Development and maintenance of a listing of common-use software to minimize the redevelopment of programs already tested and in use elsewhere.

(c) Publication and distribution of a software exchange catalog containing abstracts of common-use software.

(d) Dissemination of common-use software and/or documentation.

(e) Reduction of overall costs, time, and use of personnel resources for software acquisition and/or development.

§ 201-31.014-4 Services performed by the Federal Software Exchange Center.

The functions of the Federal Software Exchange Center (FSEC) include—

(a) Maintaining a central library of summary descriptions of common-use programs and systems, including a complete index of this inventory and master copies of requested programs, systems, and documentation.

(b) Editing, screening, and compiling agency abstracts of common-use programs or systems submitted for exchange by Federal agencies.

(c) Functioning as a central point of contact with agencies for information and dissemination of available software.

(d) Publishing and distributing the basic Federal Software Exchange Catalog with periodic updates.

(e) Assisting Federal agencies in identifying currently available software to satisfy their requirements.

(f) Assisting agencies in obtaining information concerning technical problems with software released through FSEC.

(g) Notifying agencies of changes to software obtained through FSEC.

§ 201-31.014-5 Agency actions.

(a) Federal agencies are required to—

(1) Continually review software within the agency to identify programs or systems which would be of use to other agencies meeting the criteria set forth in § 201-31.014-1.

(2) Submit abstracts of programs meeting the criteria in § 201-31.014-1 to FSEC, National Technical Information Service, Springfield, VA 22151, on Standard Form (SF) 185, Federal Information Processing Standard Software Summary. Common-use programs and systems meeting the specified criteria will be described and reported to FSEC on a continuing basis. In addition to the instructions on SF 185, agencies may contact General Services Administration (KHE), Washington, DC 20405 (telephone (202) 523-4968 or FTS, 523-4968) for information concerning organization codes, computer manufacturers, and models.

(3) Notify FSEC, using SF 185, of changes to software previously reported. Such changes should have been adequately tested to ensure the effective performance of the software.

(4) Notify FSEC, using SF 185, of previously reported programs that the agency no longer maintains. (Reports shall be made within 30 days terminating maintenance).

(5) Make a one-time submission, within 15 days of receipt of the FSEC request, of an actual program and/or its documentation. System program documentation shall be provided to the extent that it can be implemented by other users and should contain as a minimum the following—

(i) A narrative;

(ii) User instructions which should include program interface requirements, system resource requirements, identity of the computer on which the software is operational, program language, the name, number and release of the system under which the software is operating, applicable data communications interface requirements and applicable error message descriptions, with recommended corrective actions;

(iii) A broad logic flowchart to indicate the ease of removal or addition of program modules;

(iv) Sample inputs and outputs; and

(v) Program listing of the source and object coding as well as available cross-reference listings generated by the applicable assembler or compiler.

(6) Notify FSEC of technical problems with software submitted to or obtained from FSEC within 15 days of detection of the problem.

(b) The submitting agency will not be responsible to another agency for maintenance of software submitted to FSEC that has been implemented in another agency.

(c) The reports required by this § 201-31.014-5 have been cleared in accordance with FPMR 101-11.11 and are exempt from reports control.

§ 201-31.014-6 Arrangments and guidelines for use of the Federal Software Exchange Program.

(a) Agencies having requirements for software that they plan to acquire from commercial sources shall screen existing Federal ADP software resources by reviewing the Federal Software Exchange Catalog or by obtaining assistance from FSEC to meet its software requirements. The catalog is a reference publication maintained by the FSEC which summarizes information about Government-owned common-use software produced by and for Federal agencies.

(b) Programs or systems listed in the Federal Software Exchange Catalog are available through FSEC which will contact the contributing agency for the requested documentation and/or programs. The contributing agency shall send the documentation and a copy of the program on either tape or cards to FSEC only once per program.

(c) FSEC will make a copy of both the documentation and the program to be kept on file for future requests. FSEC will provide the software package to the requesting agency at the published price.

§ 201-31.014-7 Effect on the software acquisition process.

When an agency is unsuccessful in obtaining the required software from those available through FSEC, the usual procedures for the acquisition of software will be followed.

§ 201-31.014-8 Forms availability.

Supplies of Standard Form 185 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 201-31.014-9 Federal Software Exchange Catalog availability.

The Federal Software Exchange Catalog of common-use programs and systems may be obtained from the National Technical Information Service, Springfield, VA 22151. Revisions of the catalog will be published quarterly.

§ 201-31.014-10 Federal Software Exchange Program review.

GSA will review FSEC at least annually to determine the efficiency of operations, effectiveness of mission, and significance of software cost avoidance realized.

§ 201-31.014-11 Assistance by GSA.

Assistance in any phase of the Software Exchange Program covered by this § 201-31.014 may be obtained by contacting the General Services Administration (KMA), Washington, DC 20405, or the appropriate GSA regional office.

PART 201-32—CONTRACTING FOR ADP RESOURCES

Sec.

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Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-32.000 Scope of part.

This part prescribes policies and procedures for the procurement and contracting of automatic data processing resources acquisitions. The provisions shall be used in conjunction with the Federal Acquisition Regulation (see Subpart 201-1.6).

Subpart 201-32.1—Contracting For ADP Resources

§ 201-32.100 Scope of subpart.

This subpart prescribes policies and procedures that have general application to the procurement and contracting for ADP resources.

§ 201-32.101 Implementation of acquisition policies.

Agencies shall follow the provisions set forth in Part 201-24 when contracting for ADP resources.

§ 201-32.102 Least cost acquisition.

(a) The contracting officer shall select the method of acquisition that represents the lowest overall system/item life cost to the Government, price and other factors considered, subject to availability of funds. The solicitation should be accomplished in a manner that will allow evaluation of offers in this regard.

(b) If a purchase, long-term lease, or licensing arrangement is the lowest overall cost alternative and the proper type of funds (e.g., purchase money) are not available, GSA (KXMA) shall be contacted to determine if the ADP Fund can be used for the acquisition (see the current GSA Bulletin, Subject: Use of ADP Fund for Equipment Purchase).

(c) In some cases, lease may be the lowest overall cost alternative based on the system/item life to the initial user; whereas, purchase or a lease to ownership plan may be the lowest overall cost based on the Government system/item life. When this condition exists, the agency shall contact GSA (KXMA) to determine if the ADP Fund can be used to make the purchase. Equipment purchased by the ADP Fund under these conditions will be leased back to the using agency at a price not to exceed the vendor's lease cost over the initial user's system/item life. ADPE retained by the using agency beyond the originally established system/item life shall be subject to a new ADP Fund leasing agreement.

(d) In those cases where purchase funds are not available but purchase is in the best interest of the Government, the method of acquisition which is most advantageous to the Government and for which funds are available shall be selected.

§ 201-32.103 Major system acquisition responsibilities.

(a) *Responsibilities of requiring agency.* Before contracting for a major system acquisition under OMB Circular A-109 procedures, the requiring agency shall:

(1) Advise GSA when the agency head approves the mission need statement (Key Decision 1). The advice and assistance of GSA may be requested in peforming the analysis, particularly in regard to contemporary experience which may be applicable to the agency mission need. Requests for assistance should be addressed to General Services Administration (KMA), Washington, DC 20405.

(2) Forward two copies of the major system acquisition request to GSA (KMA). The request shall include applicable data required in the agency procurement request (APR) as required § 201-23.106. In addition, the request should include—

(i) A copy of the mission need statement, approved in accordance with applicable directives (Key Decision 1-Approval of Mission Need Statement);

(ii) The name, address, and telephone number of the designated program manager together with the approved charter outlining the manager's responsibilities, authority, and accountability; and

(iii) A copy of the system acquisition strategy and plan, approved by the program manager. Since the acquisition strategy and plan will become the blueprint for the contracting action, it should be developed in coordination with GSA. Participation by GSA may be arranged by contacting the Authorization and Management Reviews Division (KMA).

(b) *Responsibilities of GSA.* (1) Before the contracting phase of a major system acquisition, GSA will—

(i) Provide advice and assistance to the requiring agency, as requested, in its mission analysis efforts to the maximum particable extent.

(ii) Participate, in an advisory role to the agency program manager, in the development of the system acquisition strategy and plan, upon request.

(2) Based on the major system acquisition request, GSA will—

(i) Delegate authority to the agency to conduct the procurement;

(ii) Delegate authority to the agency to conduct the procurement action subject to the GSA participation to the extent specified in the delegation; or

(iii) Conduct the procurement on behalf of the agency.

(c) *Contracting by the requiring agency.* When the agency acts under a DPA, the agency shall conduct the procurement in compliance with applicable procurement policies, regulations, and, in particular, the specific terms of the delegation for the major system acquisition.

(d) *Procurement by GSA.* (1) When GSA elects to conduct the procurement, the procurement is a joint endeavor. Agency responsibilities shall be as set forth in § 201-23.111-1 as modified and supplemented in this § 201-32.103.

(i) The agency shall provide the necessary personnel for evaluation of the concept designs and demonstration contracts and for the selection of alternatives for further consideration.

(ii) The agency shall provide copies of agency head approvals (Key Decisions) to GSA.

(2) When conducting the procurement, GSA's responsibilities will be as set forth in § 201-23.111-2.

§ 201-32.104 Implementation of computer security requirements.

(a) Specifications for the acquisition of ADPE, software, maintenance services, ADP services or support services, and supplies are required to be certified by the requiring agency as meeting the agency security needs. (See OMB Circular No. A-71, Transmittal Memorandum No. 1, dated July 27, 1978, and implementing policies, procedures, standards, and guidelines issued by GSA (see Subparts 201-7.1 and 201-7.2), Department of Commerce, and the Office of Personnel Management.) These requirements are in addition to provisions concerning protection of the privacy of individuals (see Subpart 201-6.1, § 201-32.302, and FAR Subpart 24.1.)

(b) Solicitation specification shall include, where applicable—

(1) Agency rules of conduct that a contractor and the contractor's employees shall be required to follow;

(2) A list of the anticipated threats and hazards that have been determined by risk analysis that the contractor must guard against;

(3) A description of the safeguards that the user agency specifically requires the contractor to provide;

(4) The standards applicable to the contractual requirement;

(5) The test methods, procedures, criteria, and inspection system (or the requirement to submit proposals therefor) necessary to verify and monitor the operation of the safeguards

during contract performance and to discover and counter any new threats or hazards;

(6) the requirement for periodically assessing the security risks involved and advising potential users of the level of security provided;

(7) Proposed contractual clauses or provisions, as necessary, to provide for the foregoing; and

(8) A description of the personnel security requirements.

(c) Evaluations of offers for award, where applicable, will include—

(1) The adequacy of the proposed safeguard program;

(2) The presence of safeguards, including personnel security requirements; and

(3) The inclusion in the proposed contract of clauses that appropriately provide for (i) title to safeguards designed or developed under the contract, (ii) control of publication or disclosure of safeguards whether Government furnished or contractor generated, and (iii) statement of work adjustments, as necessary, to reflect the contractor's proposal, its evaluation, and the contract negotiation.

(d) Contract administration should include, where applicable, monitoring the verification and inspection program for continuing effectiveness of the safeguard program including compliance with applicable standards, procedures, and guidelines incorporated into the contract.

§ 201-32.105 Implementation of standards.

Agencies shall implement standards set forth in Subpart 201-8.1 when contracting for ADP resources (see § 201-8.104).

§ 201-32.106 Publicizing contracting actions.

To ensure that competition is obtained on ADP contracting actions to the maximum practicable extent, agencies shall publicize solicitations as set forth below:

(a) Synopses of proposed contracting actions shall be publicized in the "Commerce Business Daily" (CBD), in accordance with the provisions of FAR Subpart 5.2 (see also § 201-32.207-1(f)).

(b) Bids and proposals shall be solicited in accordance with applicable provisions (see FAR 8.001, 14.203-1 and 14.205). However, the GSA centralized Bidders Mailing List (BML) for Federal Supply Classification (FSC) Group 70 may be used for competitive ADPE and software acquisitions as established in agency procedures. Agencies may obtain the GSA BML by a written request to the General Services Administration (8 BRC), Building 4, Denver Federal Center, Denver, CO 80255. The request shall include the applicable class and BML code number.

7010-0001	ADPE System Configuration
7020-0001	ADP Central Processing Unit (CPU, Computer), Analog
7021-0001	ADP Central Processing Unit (CPU, Computer), Digital
7022-0001	ADP Central Processing Unit (CPU, Computer), Hybrid
7025-0001	Memory-Magnetic Storage
7025-0002	Magnetic Tape Subsystems
7025-0003	Magnetic Disk Subsystems
7025-0004	Printers, High Speed (ADP)
7025-0005	Paper Tape Devices
7025-0007	Interactive Display
7025-0008	Interactive Graphics
7025-0009	Interactive Hard Copy
7025-0010	Other ADP Input/Output and Storage Devices
7030-0001	Operating System
7030-0002	Application Programs
7030-0003	Data Base Management Programs
7030-0004	Other Software
7035-0001	ADP Accessorial Equipment
7040-0001	Punched Card Equipment
7045-0002	ADP Support Equipment
7050-0001	ADP Components

The GSA BML which is received may be used for subsequent contracting actions for items in the class and BML code, provided the solicitation is released to industry within 90 calendar days following receipt of the BML in question.

(c) Section 201-32.106(b) shall be cited as the authority for the request. For further information concerning the above classes, agencies should contact General Services Administration (KEC), Washington, DC 20405.

(d) Agencies may use the BML for Standard Industrial Group 0739, BML Code 4, for ADP maintenance services. Procedures for obtaining and using this BML are the same as those outlined in paragraph (b) of this section. This § 201-32.106(d) shall be cited as the authority for requesting this BML.

§ 201-32.107 Industry review of ADP specifications.

Maximum advantage shall be taken of the latest technological advances in the ADP field to ensure that the Government's data processing requirements are met at the lowest possible overall cost. The ADP industry can perform a useful service during the early stages of the contracting process by ensuring that the specifications are clearly stated and readily understandable and that they will permit the Government to take full advantage of current ADP technology. Accordingly, an agency, at its discretion, may provide potential offerors a copy of the proposed specifications before release of the formal solicitation. All those offerors who are scheduled to receive a copy of the solicitation under the provisions of § 201-32.106 should be furnished a copy of the proposed specifications. Offerors should be given a minimum of 30 calendar days in which to submit their written comments. If the acquisition is complex, offerors normally should be given at least 60 calendar days for submission of their comments. The agency shall evaluate the comments received and take such action as it determines to be appropriate. The Government's action on these comments shall be final.

§ 201-32.108 Evaluation factors.

Solicitations shall identify all factors, including conversion costs, that will be considered in the evaluation of offers (See FAR 15.406-5(c) and 15.605 and § 201-32.203). The evaluation factors shall be applied to the mandatory requirements and the other requirements identified as evaluated optional features, where applicable. When evaluated optional features are included in a solicitation, relative importance (expressed in dollars values, or points, or any other reasonable indicators) shall be indicated for each feature.

Subpart 201-32.2—Contracting for ADP Equipment Items and Systems

§ 201-32.200 Scope of subpart.

This subpart prescribes policies and procedures (in addition to those in Subpart 201-32.1) that have application to the procurement and contracting for ADP equipment items and systems.

§ 201-32.201 [Reserved]

§ 201-32.202 [Reserved]

§ 201-32.203 Factors to be considered in determining lowest overall cost for ADP equipment systems.

The prices offered and estimated costs of conversion that can be stated in dollars for software, including data base management systems, data base conversion, files conversion, system test, parallel operations, and other expenses directly related to the conversion from installed ADPE and software to augmentation or replacement ADPE and software, shall be included in the evaluation for determining the lowest overall cost, price and other factors considered. The following are examples of other factors to be considered:

(a) Economic benefits clearly attributable to increased agency productivity.

(b) Direct savings that would accrue to the Government from the release of rented ADPE, discontinuance of commercial ADP services, or reduction in telecommunications costs.

(c) Indirect savings derived from reductions in other than ADPE and ADP service costs, such as space and/or non-ADP personnel support expenses.

(d) Benefits from implementing new applications which otherwise would have to be deferred, either indefinitely or to a significantly distant point-in-time.

(e) Economic advantages resulting from providing the capability to accommodate projected increases in workload without contracting for further augmentation or replacement of the ADPE or acquisition of commercial ADP services.

(f) Potential savings due to the availability of software already developed and available from the Federal inventory or commercial marketplace that could be used to meet additional agency requirements.

(g) Proven reliability of the equipment and operating system software in similar operating environments.

(h) The continued availability of operating system software support and maintenance services beyond the initial system/item life that would enhance the probability of reutilization of the ADPE within the Government.

(i) The potential for supporting other agencies through the ADP sharing program.

§ 201-32.204 Use of the GSA Solicitation Document for ADP Equipment Systems.

The GSA Solicitation Document for ADP Equipment Systems is designed to assist contracting activities in preparing for ADP equipment system contracting. This document, together with a guidance document for agencies, is available for information and guidance. The solicitation document contains clauses regarding special provisions and contractor support. These clauses may be used if they meet the requirements of the user. A limited number of copies of this solicitation document are available from General Services Administration (KMPP), Washington, DC 20405.

§ 201-32.205 Solicitation provisions and contract clauses for ADP equipment systems.

§ 201-32.205-1 Limitation of liability.

The contracting officer shall insert the clause, Warranty Exclusion and Limitation of Damages (APR 84 FIRMR), contained in this § 201-32.205-1 in solicitations and contracts for ADP equipment, commercially available software, maintenance, and related supplies, unless the contracting officer determines that a higher degree of protection is in the best interest of the Government.

Warranty Exclusion and Limitation of Damages (APR 84 FIRMR)

Except as expressly set forth in writing in this agreement, or except as provided in the Commitments, Warranties, and Representations clause, if applicable, and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the Contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, Section 2-715, in effect in the District of Columbia as of January 1, 1973; i.e.:

Consequential damages resulting from the seller's breach include—

(a) Any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

(End of clause)

§ 201-32.205-2 Contractor representation.

The contracting officer shall insert the clause, Contractor Representation (APR 84 FIRMR), contained in this § 201-32.205-2 in solicitations and contracts for ADP equipment items or systems when the Government's requirement is set forth in whole or in part by functional specifications and the contract amount is expected to exceed $100,000.

Contractor Representation (APR 84 FIRMR)

Unless the Contractor expressly states otherwise in the Contractor's proposal, where functional requirements are expressly stated as part of the requirements of this solicitation, the Contractor, by responding, represents that in its opinion the system/item proposed is capable of meeting those requirements. However, once the system/item is accepted by the Government, Contractor responsibility under this clause ceases. In the event of any inconsistency between the detailed specification and the functional specification contained in the solicitation, the former will control.

(End of clause)

§ 201-32.205-3 Fixed-price options.

(a) A fixed-price contract with an option to extend the contract period of performance and/or to acquire additional quantities may be in the best interest of the Government when—

(1) The Government has firm requirements for the use of ADPE, commercially available software, or maintenance services which extend beyond the initial fiscal year;

(2) Funds, including funds under statutes that limit the obligation of funds to the fiscal year of their appropriation, are unavailable beyond the initial fiscal year;

(3) A reasonable certainty exists that funds will be available thereafter to permit the satisfaction of the requirements; and

(4) Realistic competition for the additional periods or quantities may be impracticable once the initial contract is awarded.

(b) The evaluation of options is in the best interest of the Government at the time of initial award because it reduces the possibility of a buy-in and motivates price competition on a system/item life basis. "Buy-in" refers to the practice of attempting to obtain a contract award by knowingly offering a price less than anticipated costs with the expectation of receiving "follow-on" awards (where effective competition can be anticipated to be less) at prices at least high enough to recover any losses on the original "buy-in" contract. The long-term effects of this practice may diminish competition and may result in poor contract performance and higher long-term prices to the Government.

(c) One-time charges (startup and other nonrecurring costs), such as documentation, manuals, initial training requirements, etc., may be significant for a particular solicitation. An offeror may intend to absorb some portion of these costs or may plan to recover (amortize) them in connection with possible "follow-on" awards. Incumbent offerors could enjoy a competitive advantage since it may not be necessary to include portions of these costs. In addition, offerors with relatively broader markets and/or stronger financial resources tend to have greater flexibility with respect to any one individual procurement action. The evaluation of system/item life prices promotes greater competition by evening out these advantages and encourages lower system/item life pricing.

(d)(1) When considering options, care should be exercised in making the distinction between (i) discontinuance charges; i.e., terminations settlement compensation (the term includes prenegotiated contractual payment provisions) for discontinuance of performance during the initial contract period of performance or during an exercised option period of performance, (ii) separate charges for the Government's failure to exercise an option to extend the period of performance or to acquire additional quantities, and (iii) contracting for evaluated optional features which is outside the scope of this § 201-32.205-3.

(2) A contract pricing arrangement that calls for a payment that reflects the addition of a separate charge to a contract price is illegal if the charge

when added to the contract price exceeds the amount that reasonably represents the value of *bona fide* fiscal year requirements. (See 31 U.S.C. 665a, 31 U.S.C. 712a, and 41 U.S.C. 11.) To preclude the offering of these illegal charges (because of the nonexercise of options) when options are to be incorporated into a contract, separate charges in any form shall not be solicited. Solicitations shall provide that offers containing any charges for the Government's failure to exercise any option will be rejected. The solicitation provision prescribed in paragraph (g) of this § 201–32.205–350 so provides.

(e)(1) When the provision, Fixed-Price Options (APR 84 FIRMR), is used, the Government and the contractor may find it mutually advantageous to incorporate a special contract clause containing specific notice and settlement terms to cover discontinuance of rental of equipment or software during the contract period of performance. The solicitation/contract provision, Discontinuance Repricing (APR 84 FIRMR), contained in § 201–32.205–4 and the contract clause, Discontinuance of Rental and Repricing (APR 84 FIRMR), contained in § 201–32.205–5 accomplish this purpose. When the clause at § 201–32.205–5 is incorporated in a contract, it is in addition to and takes precedence over the Termination for Convenience of the Government clause. If the clause at § 201–32.205–5 is not incorporated, discontinuance shall be governed solely by the Termination for Convenience of the Government clause.

(2) The Discontinuance Repricing (APR 84 FIRMR) clause provides notice of discontinuance and settlement payment terms. A means is provided to determine finitely discontinuance charges within a ceiling price that ensures that the value of the discontinued requirement and the contract value of the requirement for the applicable contract period are reasonable. It provides the opportunity for a lower price offer by covering the risk of discontinuance with specified repricing terms.

(3) Neither the incorporation of the clause in the contract nor the calculation and comparison of potential discontinuance charges shall be considered as a factor in the evaluation and selection for award.

(f)(1) The exercise of an option by the Government shall be made only if it is determined that (i) funds are available, (ii) the requirement covered by the option fulfills an existing need of the Government, and (iii) the exercise of the option is the most advantageous method of fulfilling the Government's need, price and other factors considered.

(2) The determination shall be set forth in writing and made a part of the contract file.

(g) The contracting officer shall insert the provision, Fixed-Price Options (APR 84 FIRMR), contained in this § 201–32.205–3(g) when the circumstances discussed in paragraph (a) of this § 201–32.205–3 are applicable. The provision requires completing and modifying actions, which are identified as follows:

*Delete bracketed words when inapplicable;

**Insert the specific number of months applicable to the solicitation;

***Insert the location in the solicitation where appropriate discount factors and the contemplated payment schedule are specified;

****Insert 30 days unless the Government determines that a longer period is appropriate.

When the Fixed-Price Options provision is used, the solicitation shall also specify—

(1) The system/item life;

(2) The present-value-discount methodology, including payment schedule, that will be used for purposes of award evaluation; and

(3) The option periods of performance and option quantities, as appropriate.

Fixed-Price Options (APR 84 FIRMR)

(a) This solicitation is being conducted on the basis that the known requirements extend beyond the initial contract period [and exceed the basic quantity]* to be awarded, but due to the unavailability of funds, including statutory limitations on obligation of funds, the options cannot be exercised at the time of award of the initial contract. There is a reasonable certainty that funds will be available thereafter to permit exercise of the options. Because realistic competition for the option periods [and quantity]* is impracticable once the initial contract is awarded, it is in the best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in."

(b) In order to safeguard the integrity of the Government's evaluation and because the Government is required to acquire ADPE and related items on the basis of fulfilling the systems-life requirement at the lowest overall cost, price and other factors considered, requirements for optional periods [and additional quantities]* as well as initial requirements will be evaluated for award on a fixed-price basis. Since the systems or items to be acquired under the solicitation have an expected life of ** months (hereafter referred to as "system life" or "item life," as appropriate), and since lowest system (item) life costs are synonymous with lowest overall costs, the contract resulting from this solicitation will contain options at fixed prices for renewals for subsequent periods based on fiscal years throughout the projected system (item) life [and options at fixed prices for all stated optional quantities of supplies or services not included in the initial requirements].* Despite the foregoing, offerors are reminded that although the evaluation that will lead to contract award will be based on system (item) life costs, the award of the initial contract as well as the exercise of the options is dependent not only on the continued existence of the requirement and the availability of funds but also on an affirmative determination that each exercise of an option is in the best interest of the Government.

(c) Options included in offers submitted in response to this solicitation will be evaluated as follows:

(1) *Firm Fixed Prices.* To be considered acceptable under the solicitation, offerors must offer (i) fixed prices for the initial contract period for the initial systems or items being acquired, (ii) fixed prices or prices which can be finitely determined for each separate option renewal period, which prices must remain in effect throughout that period, [and (iii) fixed prices or prices which can be finitely determined for all required option quantities].*

(2) *Evaluation of Prices.* Offers will be evaluated for purposes of award by adding the total prices of all optional periods [and all stated optional quantities]* to the total price for the initial contract period covering the initial system or items. These prices will be adjusted by the appropriate discount factors shown in *** of the solicitation document. Evaluation of option prices will not obligate the Government to exercise the options. Offers which do not include fixed or determinable system (item) life prices cannot be evaluated for the total systems-life requirement and will be rejected. Offers which meet the mandatory requirements will be evaluated on the basis of lowest overall cost to the government, price and other factors considered. Evaluated optional features, if any, will also be evaluated.

(3) *Separate Charges.* Separate charges, in any form, are not solicited. Offerors containing any charges for failure to exercise any option will be rejected.

(d) Selection of an offer shall be made on the basis of lowest overall cost, price and other factors considered, to the Government provided that the contract price reasonably represents the value of *bona fide* fiscal year requirements, rather than representing, to any extent, a portion of any other fiscal year's requirements. This determination with respect to the contract price shall be made after consideration of such factors as commercial or catalog prices for short-term leases, offeror system startup expenses, multiyear price protection, assured system-life availability of equipment, software, and vendor support. If a determination is made that an offer does not meet these criteria, that offer cannot be accepted for award.

(e) Award of an initial contract will not obligate the Government to exercise any contractual option. Prior to exercising any option, the Government will make a determination that (i) funds are available, (ii) the requirement covered by the option fulfills an existing need of the Government, and (iii) the exercise of the option is the most advantageous method of fulfilling the

Government's need, price and other factors considered.

(f) Failure to exercise an option shall not obligate the Government to pay any charges other than the contract price including exercised options.

(End of provision)

(h) The contracting officer shall insert the clause, Option to Extend the Term of the Contract (APR 84 FIRMR), contained in this § 201–32.205–3(h) in solicitations and contracts when the solicitation includes the provision, Fixed-Price Options (APR 84 FIRMR), contained in § 201–32.205–3(g). Where * * * * appears in the clause, the contracting officer shall insert "30 days" unless a longer period is appropriate.

Option To Extend The Term Of The Contract (APR 84 FIRMR)

This contract is renewable at the prices stated elsewhere in the contract, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor by the first day of each fiscal year of the Government or within 30 days after funds for that fiscal year become available, whichever date is the later; *provided*, that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least * * * * days before this contract is to expire. Such a preliminary notice of intent to renew shall not be deemed to commit the Government to renewals. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed ** months.

(End of clause)

(i) The contracting officer shall insert the clause, Option for Increased Quantities (APR 84 FIRMR), contained in this § 201–32.205–3(i) in solicitations and contracts when the solicitation includes the provision, Fixed-Price Options (APR 84 FIRMR), contained in § 201–32.205–3(g) and the known requirements exceed the basic quantity to be awarded.

Option for Increased Quantities (APR 84 FIRMR)

The Government may increase the items called for herein by the quantities stated and at the unit prices specified elsewhere in this contract. The Contracting Officer may exercise this option at any time within the period set forth elsewhere in the contract by giving written notice to the Contractor. Delivery of items added by exercise of this option shall be in accordance with the delivery schedule set forth elsewhere in this contract.

(End of clause)

§ 201–32.205–4 Discontinuance repricing.

The contracting officer may insert the provision, Discontinuance Repricing (APR 84 FIRMR), contained in this § 201–32.205–4 in solicitations when a fixed-price contract is contemplated and conditions in § 201–32.205–3(e) are applicable. The provision contains boxes that provide the offeror an election to agree to or decline the inclusion in the contract of the clause, Discontinuance of Rental or Repricing (APR 84 FIRMR), contained in § 201–32.205–5.

Discontinuance Repricing (APR 84 FIRMR)

(a) By the incorporation of this solicitation provision, the Government indicates its willingness to incorporate into the resulting contract the clause at FIRMR § 201–32.205–5, Discontinuance of Rental and Repricing (APR 84 FIRMR), which provides an alternative to standard termination for convenience procedures in appropriate circumstances.

(b) The following example illustrates the operation of the clause:

—Monthly rental price effective for the period in which the discontinuance date falls for the discontinued item as stated in the contract—$90.

—Monthly rental price for the item effective at the time of initial award of the system contract as stated in the vendor's ADP schedule contract (or the established commercial catalog price at the same time, if lower or if no ADP schedule contract effective)—$120.

—Months of rental prior to the discontinuance date during the initial or option contract period of performance in which the discontinuance date occurs—10.

—Rental charges earned during the applicable period of performance (10 × $90)—$900.

—Discontinuance charges to be added at discontinuance date ($120 − $90 × 10)—$300.

—Total rental charges plus discontinuance charges ($900 + $300)—$1,200.

—Ceiling on total of rental charges and discontinuance repricing charges (12 × $90)—$1,080.

—Total price during period for the discontinued item ($1,080 ceiling lower than total rental earned plus discontinuance charges)—$1,080.

(c) *Offeror election.* The undersigned offeror ☐ agrees to, ☐ declines, the incorporation of the Discontinuance of Rental and Repricing clause in any contract which may result from this solicitation.

(End of provision)

§ 201–32.205–5 Discontinuance rental and repricing.

The contracting officer shall insert the clause, Discontinuance of Rental and Repricing (APR 84 FIRMR), contained in this § 201–32.205–5 in contracts when the solicitation includes the provision, Discontinuance Repricing (APR 84 FIRMR), contained in § 201–32.205–4, and the offeror has elected (by so indicating in the appropriate box in the provision) that the offeror agrees to the incorporation of the clause.

Discontinuance of Rental and Repricing (APR 84 FIRMR)

(a) The Government may, in lieu of a termination under the Termination for the Convenience of the Government clause of this contract, during the initial or any option period of performance of this contract, discontinue rental of any equipment or software on a date specified in a written notice provided to the Contractor not less than 30 days prior to the specified discontinuance date. The Government may discontinue the rental on shorter notice when agreed to by the Contractor.

(b) In the event of discontinuance of rental under (a) above, the Government shall pay termination repricing charges to the Contractor as computed in accordance with this paragraph (b). The charges shall be the remainder obtained by subtracting the contract monthly rental price effective at the discontinuance date for the discontinued equipment or software item from the monthly rental price for the item under the GSA/ADP schedule contract or the established commercial catalog price, whichever is less, effective at the time of award of the contract's initial period of performance, multiplied by the number of months the item was rented during the particular contract period of performance (initial or option) in which the discontinuance was effective, provided, in no event shall the total of termination repricing charges and the contract rental price for the number of months the item was rented during the period in which discontinuance was effective exceed the contract price for the item for the entire period.

(c) The provisions of this clause shall prevail when notice pursuant to this clause is made.

(End of clause)

§ 201–32.206 Use of GSA schedule contracts.

(a) through (g). See Temp. Reg. 6.

(h) *Orders not at lowest price.* If ADPE, software, or maintenance services are acquired under an ADP schedule at other than the lowest delivered price available for identical or similar items under any ADP schedule contract, agencies shall justify the action and shall retain the justification and supporting data or submit them to GSA if a specific DPA is required (see § 201–23.016). The following are examples of factors that may be used in support of justifications.

(1) Special features of one item, not provided by comparable items, are required in effective program performance.

(2) An actual need exists for special characteristics to accomplish identified tasks.

(3) It is essential that the item selected be compatible with items or systems already being used.

(4) Time of delivery in terms of actual need cannot be met by a contractor offering a lower price.

(5) Greater maintenance availability, lower overall maintenance costs, or the elimination of problems anticipated with respect to machines or systems, especially at isolated use points will produce savings over the system/item life which are greater than the difference in purchase prices.

§ 201-32.207 Use of GSA requirements contracts.

GSA makes selected ADPE and software available to agencies through requirements-type contracts that provide for substantially lower equipment and software costs. Where ADPE and software which will satisfy the user's requirements are available from GSA requirements-type contracts, this source shall be used by all agencies as the primary source of supply in accordance with the provisions of these contracts. Copies of the contracts (not contractor's price lists) are distributed to recipients of the schedule FSC Group 70, Part I. Additional copies are available from the General Services Administration (8BR), Building 41, Denver Federal Center, Denver, CO 80225. Some of these requirements-type contracts specify that GSA is responsible for the allocation of the ADPE or software. In these cases, authorization shall be obtained from the General Services Administration (KEC), Washington, DC 20405, before placing an order against the requirements-type contract. Before acquiring ADPE or software that is functionally similar to the ADPE or software on a requirements-type contract from another source, the agency shall—

(a) Document the contracting case file, indicating why the requirements-type contract could not be used; and

(b) Obtain a DPA from GSA if the acquisition falls outside the applicable blanket delegation of procurement authority.

§ 201-32.208 Use of GSA purchase programs for certain ADP related supplies.

Specific purchase programs have been established by GSA for selected ADP related supplies, including electronic data processing tape. Similar programs have been established for support equipment. When the identical item is available from multiple sources, contracts are awarded on a competitive basis. These contracts are the primary source of supply for the ADP supplies and support equipment included therein. Instructions for ordering these items are set forth in the contract. Specific purchase programs also have been established for tabulating machine cards and marginally punched continuous forms; instructions for ordering are contained in FPMR 101-26.502 and 101-26.703.

Subpart 201-32.3—Contracting for ADP Services

§ 201-32.300 Scope of subparts.

This subpart prescribes policies and procedures (in addition to those in Subpart 201-32.1) that have application to the procurement and contracting for ADP services and support services.

§ 201-32.301 [Reserved]

§ 201-32.302 Contract clauses for implementation of the Privacy Act.

(a) Contract clauses required when an executive agency contracts for the design, development, operation, or maintenance of a system of records on individuals to accomplish an agency function are prescribed in FAR 24.104.

(b) Paragraph 5c(7) of OMB Circular A-108 (40 FR 28948, July 9, 1975) provides that the Administrator of General Services is responsible for issuing acquisition regulations that require executive agencies to review all proposed ADP equipment and ADP services acquisitions to assure compliance with applicable requirements of the Privacy Act of 1974 (Pub. L. 93-579, December 31, 1974; 5 U.S.C. 552a). Contracting regulations, including contract clauses, applicable to ADP services and ADP support services are set forth in this § 201-32.302. ADP and telecommunication management provisions regarding the Privacy Act are in Part 201-6. Related requirements regarding security of Federal ADP and telecommunications systems are in Part 201-7.

(c) When executive agencies contract for commercial ADP services or support services subject to the Privacy Act, the contracting officer shall include in solicitations and contracts—

(1) Agency rules of conduct that a contractor and employees shall be required to follow;

(2) A list of the anticipated threats and hazards inherent in the contemplated acquisition against which the contractor must safeguard;

(3) A description of the safeguards that the agency requires the contractor to provide;

(4) Requirements for a program of Government inspection during performance of the contract that will ensure the continued efficacy and efficiency of safeguards and the discovery and countering of new threats and hazards; and

(5) The contract clauses prescribed in §§ 201-32.302-1 and 201-32.302-2.

§ 201-32.302-1 Rights in privacy safeguards.

The contracting officer shall insert the clause, Rights in Privacy Safeguards (APR 84 FIRMR), contained in this § 201-32.302-1 in solicitations and contracts for commercial ADP services or support services subject to the Privacy Act.

Rights in Privacy Safeguards (APR 84 FIRMR)

(a) The details of any and all safeguards that the Contractor may design or develop under this contract shall become and remain the property of the Government and shall not be published or disclosed in any manner without the express written consent of the Government.

(b) The details of any and all safeguards that may be revealed to the Contractor by the Government in the course of performing under this contract shall not be published or disclosed in any manner without the express written consent the Government.

(End of clause)

§ 201-32.302-2 Access to contractor facilities and records—privacy safeguards inspection.

The contracting officer shall insert the clause, Access to Contractor Facilities and Records—Privacy Safeguards Inspection (APR 84 FIRMR), contained in this § 201-32.302-2 in solicitations and contracts for commercial ADP services or support services subject to the Privacy Act.

Access to Contractor Facilities and Records—Privacy Safeguards Inspection (APR 84 FIRMR)

(a) See Temp. Reg. 1, Supp. 1.

(b) In the event that new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or that existing safeguards have ceased to function, the discoverer shall immediately bring the situtation to the attention of the other party. Mutual agreement shall then be reached on changes or corrections to existing safeguards or institution of new safeguards with final determination of appropriateness being made by the Government. The cost of such changes or corrections shall be a matter of negotiation. The Government's liability is limited to an equitable adjustment of cost for such changes or corrections, and the Government shall not be liable for claims of loss of business, damage to reputation, or damages of any other kind arising from discovery of new or unanticipated threats or hazards, or any public or private disclosure thereof.

(End of clause)

§ 201-32.303 Use of the GSA Teleprocessing Services Program (TSP).

The TSP is a centrally managed GSA program that provides agencies with

effective and efficient means of acquiring certain commercial ADP services including related ADP support services. Agencies shall use the TSP in accordance with this Part 201–32. The TSP includes two methods for acquiring commercial ADP services. Neither of these methods allows cost-reimbursement contracting. Agencies may use either method, as appropriate.

(a) *The multiple award schedule (MAS).* See Temp. Reg. 1, Supp. 1.

(b) *The basic agreement (BA).* (1) GSA periodically establishes a BA under which GSA negotiated terms and conditions are made available for agency use in soliciting proposals and awarding contracts for TSP services. The BA terms and conditions can be modified only by GSA. Properly justified sole-source contracting actions may be conducted under the BA when a requirement within the TSP scope cannot be satisfied under the MAS. Unless a sole source is justified, agencies shall notify firms that have entered into the BA of their requirements and planned source selection. Additionally, agencies are responsible for synopsizing BA requirements in the "Commerce Business Daily" in accordance with applicable regulations (see FAR Part 5). Firms that have not entered into a BA with GSA shall be considered for contract award provided the firm agrees in its offer to all terms and conditions of the BA.

(2) Dedicated teleprocessing systems requirements may be included in a BA solicitation under the TSP provided:

(i) The APR (when required) includes appropriate documentation to support a system requirement configuration, or a specific part thereof, which is to be solicited on only a dedicated-system basis. This provision does not apply when an agency expresses willingness to evaluate a dedicated-system alternative proposal to a proposal priced on a resources-used (unit rates) basis.

(ii) The solicitation document provides for the submission and evaluation of dedicated-system proposals, on either a required or alternate basis. Offers for a dedicated system shall be considered only on a fixed-price, regardless-of-usage basis for the specified requirement.

(iii) When dedicated-system proposals are to be solicited and evaluated as an alternative to resources-used type proposals, evaluation criteria shall be sufficient to adequately compare a dedicated system pricing offer with resources-used (unit rates) offers to determine lowest overall cost. The solicitation document shall provide that an offeror submitting a dedicated-system proposal must also submit a resources-used proposal, otherwise the dedicated-system alternative shall be eliminated from consideration. Contract awards made on a system-life basis shall provide for an annual Government review of workload and usage and reserve the right to select on a prospective basis the more favorable of the contractor's dedicated-system or resources-used pricing mode.

(c) *Other contracting arrangements.* If an agency determines that a particular requirement within the scope of the TSP (see § 201–32.303–2) cannot be satisfied by any firm currently participating in the TSP, either MAS or BA, or by any firm willing to enter into a contract under the TSP BA, the agency may acquire such services as an exception to the TSP, subject to the provisions set forth in paragraph (d) of § 202–32.303–3.

(d) *TSP guidance.* (1) Guidance concerning the TSP may be obtained from the General Services Administration (KED), Washington, DC 20405 or from any GSA regional office.

(2) The Teleprocessing Services Program (TSP) Handbook provides procedures to be followed by Federal agencies in acquiring commercial ADP services within the TSP scope. The handbook is not a regulation. However, it reflects regulatory requirements of this Part 201–32. A limited number of copies of the handbook are available without charge to all Federal agencies by written request to any of the offices identified in paragraph (d)(1), above. Major revisions or new editions of the handbook are announced in FIRMR bulletins.

(e) *Agency management of TSP services.* See Temp. Reg. 1, Supp. 1.

§ 201–32.303–1 Applicability of the TSP.

(a) When a Federal agency requirement analysis (see § 201–30.007) indicates that commercial ADP services should be considered (see § 201–30.009) to satisfy an ADP requirement and it is within the scope of the GSA managed TSP, an agency shall use the TSP (but see § 201–24.005 and § 201–32.303–3(d)).

(b) Government contractors who require ADP teleprocessing services in the performance of work under cost-reimbursement type contracts or subcontracts may use the TSP pursuant to FAR Part 51.

§ 201–32.303–2 Scope of the TSP.

(a) *Covered TSP services.* Types of ADP services covered include interactive, remote batch processing, and a combination of these (full services), as well as related ADP support services incidental to the teleprocessing performed by commercial firms.

(b) *Excluded TSP support services.* See Temp. Reg. 1, Supp. 1.

(c) *Covered TSP support services.* Types of related ADP support services covered include—

(1) Training services that are limited to the unique features of a particular teleprocessing service;

(2) See Temp. Reg. 1, Supp. 1.

(3) See Temp. Reg. 1, Supp. 1.

(4) Use of the TSP firm's data bases related to a teleprocessing requirement;

(5) Furnishing network documentation; or

(6) Conversion of Government-controlled files and application programs when initiating performance or changing firms under a TSP contracting arrangement as provided in paragraph (e), below.

(d) *Limitations on TA/AS and premium software packages.* See Temp. Reg. 1, Supp. 1.

(e) *Conversion under TSP.* ADP support services associated with conversion of files and application programs (paragraph (c)(6) above) may be included in an MAS purchase order or BA contract at the option of the using agency, provided:

(1) A determination is made, when a TSP conversion requirement is estimated to exceed $75,000, that more extensive competition is not practicable.

(2) The conversion is consistent with the management and planning action provisions set forth in § 201–30.012.

(3) Each participating firm, when the MAS method is selected and the teleprocessing requirement includes conversion services, is required to propose the conversion portion of the requirement or be eliminated from consideration for that teleprocessing requirement.

(4) The description of the individual TSP conversion requirement identifies, as a minimum, the number of programs to be converted, the source computer system, the number of lines of code to be converted by language, the number of files to be converted by organizational type (e.g.; index sequential, sequential, random, DBMS), a description of the complexity and level of documentation of the files and programs, redocumentation requirements, training requirements, and specific testing and acceptance criteria for the converted programs and files.

(5) Offerors are provided an opportunity to inspect, for proposal purposes, the available documentation of all programs and files pertinent to the conversion effort, subject to necessary limitations for the protection of personal, proprietary, or other sensitive data.

(6) Offers for conversion services are solicited and awarded on a separate line item, firm fixed-price basis. Under the MAS method, participating firms do not quote conversion services rates in their schedule price list; rather a firm offer is made for each particular requirement.

(7) Order placements or contract awards, when teleprocessing requirements include conversion services, are based on lowest overall cost, price and other factors considered. Cost of conversion shall be included as an element of overall teleprocessing services costs.

(f) *Excluded facilities management.* Facilities management of Government furnished ADP equipment is excluded.

(g) *Excluded ADPE.* The lease or purchase of ADPE including terminals is excluded.

§ 201-32.303-3 Procedures for acquiring TSP services.

(a) *Description and authorization.* Agency ADP managers shall document their teleprocessing service requirements so TSP procedures can be economically and efficiently applied by the acquisition activity. When the value of the acquisition exceeds the blanket dollar thresholds for GSA authorization to proceed with a commercial ADP services contracting action (see § 201-23.104-5), the agency is required to submit an APR to GSA (see § 201-23.106).

(b) *Evaluation and source selection.* Selection of a specific source shall be based on a technical and a system-life cost evaluation appropriate to the contacting method selected (see also § 201-24.101).

(1) Technical requirement evaluation factors shall be limited to mandatory service requirements and those evaluated optional service features that are assigned relative values (expressed in dollars, points, or any other reasonable indicators). Evaluated optional service features should not exceed 20 percent weighting value in the total evaluation. Other technical evaluation factors may be appropriate (see § 201-32.203).

(2) The lowest overall cost shall be used in evaluation and source selection. Conversion costs shall be included in system-life evaluations as provided in § 201-30.012-2. Technically acceptable contractor price quotations instead of Government estimates for specific contractor conversion efforts shall be used in the Government's overall estimate of conversion cost in computing the system-life costs.

(3) See Temp. Reg. 1, Supp. 1.

(4) See Temp. Reg. 1, Supp. 1.

(5) Benchmark materials to be used for selection under the MAS shall be available on the "Release Date" of the requirements under MAS procedures. For selections under the BA, benchmark materials shall be available at the time solicitations are released. Benchmark materials shall be furnished to all firms who indicate an intent to enter into the competition. Under either the MAS or BA, a copy of the benchmark used for cost evaluation purposes in the selection process shall be retained for periodic performance evaluation purposes over the system life of the requirement.

(6) The technically acceptable offer evaluated as the lowest overall cost, price and other factors considered, shall be selected.

(7) Agencies are responsible for ensuring that contractor services received and invoices submitted are consistent with the terms, conditions, and prices of the schedule or contract. The benchmark used for source selection, which exercises the contractor's billing algorithm, should be periodically rerun throughout the contract life to provide this verification. Agencies should contact GSA's Contract Programs Division (KED), Washington, DC 20405, for assistance in invoice verification, auditing, and use of billing algorithms, telephone (202) 566-0646 or FTS, 566-0646.

(c) *Low cost acquisition.* See Temp. Reg. 1, Supp. 1.

(d) *Abbreviated procedures.* See Temp. Reg. 1, Supp. 1.

(e) *Exceptions.* (1) Agencies shall attempt to satisfy their commercial ADP service requirements which are within the scope of the TSP through use of the MAS or BA methods. When it appears likely that neither method can satisfy the requirement, the agency shall conduct and document a market survey to determine the availability of the required services from participating TSP firms and from other sources that would negotiate under the TSP BA. When the results of the survey are negative, an exception exists.

(2) When a TSP exception exists and when the value of the acquisition exceeds the applicable blanket regulatory delegation of procurement authority threshold, the agency APR submission shall include the following—

(i) Documentation of the survey;

(ii) Documentation describing the method of acquisition contemplated because of the survey results, and

(iii) If sole source, documentation as set forth in § 201-23.106-1(b)(4)(iv).

§ 201-32.303-4 GSA review of selections under the TSP.

GSA reserves the right to review any agency TSP selection action under the MAS or BA or as an exception to the TSP, either before or after award. Consequently, contractor selection and contracting documentation shall be retained in agency files for a period of two years after selection.

§ 201-32.304 Use of GSA regional support services.

GSA establishes and makes available for the use of other agencies a variety of regional ADP, office automation, and telecommunications support services contracts. These contracts may include such areas as software development and programing, telecommunications analyses, computer security analyses, production of computer-output microfilm, and data entry. Agencies should consult with their GSA/OIRM regional office to determine the scope and availability of these contracts. Organizations having a Memorandum of Understanding with the respective GSA regional office may obtain services through these contracts without further administrative justification. These sources of supply should be used if the agency determines they will meet the user's need at the lowest overall cost, price and other factors considered. The following information is generally descriptive of these contracts.

(a) These regional requirements contracts are mandatory on the GSA and on the contractor. They are optional for use by agencies whose requirements fall within the scope of these contracts.

(b) Agencies who wish to use these contracts have the responsibility to develop, jointly with GSA regional personnel, a statement of their work and deliverables. The GSA regional personnel serve as contract administrators on the contracts and technical consultants.

(c) Task orders are negotiated by GSA and the agency with vendors based upon services and deliverables specified by the requesting agency. GSA contract administrators ensure that contract provisions are met and services are delivered as negotiated.

(d) Agencies reimburse GSA through the ADP or Federal Telecommunications Fund, as appropriate, for services received under the requirements contracts.

PART 201-33—REUSE OF ADP EQUIPMENT

Sec.

201-33.000 Scope of part.
201-33.001 Applicability.

Sec.
201-33.002 Reassignment of ADPE within Federal agencies.
201-33.003 Reutilization of excess ADPE.
201-33.003-1 Designation of Agency ADPE point of contact.
201-33.003-2 Considerations for use of excess Government-owned or leased ADPE.
201-33.003-3 Reporting excess or exchange/sale ADPE.
201-33.004 Availability list.
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201-33.006 Requests for transfer of excess ADPE or exchange/sale ADPE.
201-33.007 Care and handling of excess or exchange/sale ADPE.
201-33.008 Donation and sale of surplus ADPE.
201-33.009 Use of the ADP Fund.
201-33.009-1 General Conditions of an ADP Fund lease.
201-33.009-2 Reporting ADP Fund equipment excess.
201-33.009-3 Transfer of ADP Fund equipment.
201-33.009-4 Guarantee of ADP Fund equipment.
201-33.009-5 Use of the ADP Fund for acquisition of exchange/sale ADPE.
201-33.010 Use of excess ADPE on cost-reimbursement type contracts and project grants.
201-33.010-1 Use of excess ADPE on cost-reimbursement type contracts.
201-33.010-2 Use of excess ADPE on grants: Eligibility.
201-33.010-3 Use of excess ADPE on project grants: Federal and project grantee responsibility.
201-33.011 Reporting excess or exchange/sale ADPE.
201-33.011-1 Assignment of automatic release date.
201-33.011-2 Withdrawal of reports of excess or exchange/sale ADPE.
201-33.011-3 Corrections to reports of excess or exchange/sale ADPE.
201-33.011-4 Annual reporting requirements.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-33.000 Scope of part.

This part prescribes policies and procedures for the reuse of automatic data processing equipment (ADPE) in the Federal Government.

§ 201-33.001 Applicability.

(a) The provisions of this Part 201-33 apply to all Federal agencies. Agencies shall apply the provisions to their grantees and contractors who operate ADP equipment under grants, contracts, or subcontracts, when the ADP equipment is—

(1) Leased and the total cost of leasing is reimbursed under one or more Government contracts or grants;

(2) Acquired by a contractor or grantee under a contract or grant under the terms of which title is either vested in the Government or the Government is obligated or has the option to take over title;

(3) Furnished to the grantee or contractor by the Government; or

(4) Operated by the grantee or contractor as part of a Government-owned or controlled facility.

(b) The provisions of this Part 201-33 do not apply to excess auxiliary or accessorial automatic data processing equipment (ADPE) with an original acquisition cost (OAC) of $1,500 or less (but see §§ 201-33.003 and 201-33.011).

§ 201-33.002 Reassignment of ADPE within Federal agencies.

(a) Government-owned ADPE not declared excess shall be reassigned within the agency when it is no longer required for the purpose for which it was acquired and the agency has another approved requirement which can best or most economically be met by reassigning this ADPE. When Government-owned ADPE can be substituted for ADPE intended to be acquired by lease or purchase or when Government-owned ADPE can be adapted for other further use, the intended acquisition action shall be stopped. Title transfer (under the authority of FPMR Part 101-46) between such owned ADPE and leased ADPE shall be considered as a means of reducing rental payments. ADPE shall be reassigned as specified in § 201-33.003-2.

(b) The reassignment of Government-leased ADPE that has not been declared excess and that is no longer required for the purpose and use use for which it was originally acquired is a sole source procurement action and, therefore, must be accomplished as specified in regulations governing sole source procurements.

(c) When there is no approved requirement for ADPE within the agency and ADPE is determined to be excess, this ADPE shall be reported to GSA as specified in § 201-33.011.

(d) Reassignment of ADPE to Federal agency grantees shall not be made until Federal requirements are determined in accordance with this Part 201-33.

(e) The use of ADPE for maintenance by redundancy (backup) or cannibalization for a parts source of supply shall not be made until Federal requirements are determined in accordance with this Part 201-33.

§ 201-33.003 Reutilization of excess ADPE.

The primary source of supply for meeting ADPE requirements is excess. To obtain maximum reutilization and to minimize the procurement of new ADPE, excess and exchange/sale ADPE shall be made available for transfer to other Federal agencies in accordance with the provisions of this Part 201-33. Excess auxiliary or accessorial items with a unit original acquisition cost (OAC) of $1,500 or less shall be made available for transfer to other Federal agencies in accordance with the provision of FPMR Subpart 101-43.3. Any need for excess ADPE expressed by a Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations, shall take precedence over disposal, provided such a need is made known to GSA prior to shipment or delivery in case of donation or prior to removal of the property from Government control in case of sale.

§ 201-33.003-1 Designation of agency ADPE point of contact.

(a) Each agency head shall designate an agency ADPE point of contact to promote the maximum reutilization of excess ADPE, to provide proper coordination on an interagency basis, and to ensure the excess ADPE is acquired in accordance with agency plans and program efforts. The name, address, and phone number of this individual shall be submitted promptly after designation to General Services Administration, (KHE), Washington, DC 20405.

§ 201-33.003-2 Considerations for use of excess Government-owned or -leased ADPE.

A procurement solicitation to acquire ADPE by purchase or lease shall not be initiated until it is first determined and appropriately documented that the requirement cannot be met economically and efficiently by sharing ADPE already installed (see Part 201-31) or by utilizing excess Government-owned or -leased ADPE advertised in ADPE availability lists published by GSA.

(a) Excess Government-owned ADPE shall be considered at all times as a replacement for installed leased ADPE or meeting new requirements if the excess owned ADPE has the capability to fulfill the systems specifications and its overall costs in terms of acquisition represent the least overall cost to the Government. The reutilization of excess Government-owned ADPE is not a procurement action and therefore is not subject to the laws and regulations governing procurement by Federal agencies.

(1) When a contract has been awarded or a purchase/delivery order placed against an applicable ADP

Schedule contract for ADPE and similar owned excess ADPE becomes available, consideration shall be given to terminating the contract or purchase/delivery order for the convenience of the Government. An evaluation of termination charges, if any, shall be made in addition to the other considerations indicated in this § 201–33.003–2.

(2) To obtain maximum economic advantage to the Government, reutilization of excess owned ADPE to satisfy requirements generally shall be considered in the following priority order:

(i) To replace leased ADPE that is identical or functionally compatible;

(ii) To avoid procurement of new ADPE that is identical or functionally compatible;

(iii) To modify Government-owned ADPE to make it identical or functionally compatible;

(iv) To provide maintenance by redundancy; i.e., backup for installed ADPE; and

(v) To cannibalize in order to have a parts source of supply for maintenance. In instances where maintenance support has been discontinued or significantly curtailed, reuse priority may be given to agencies seeking to support their installed base.

(3) The use of excess owned ADPE for maintenance by redundancy or cannibalization for a parts source of supply shall not be made unless approved by GSA pursuant to § 201–33.006.

(b) The reutilization of excess leased ADPE is in the nature of a procurement and subject to the applicable laws and regulations governing procurement by Federal agencies. In general, these regulations require that a sole source finding and determination be made and documented, or the equipment be selected as a result of a competitive solicitation, or a finding and determination be documented that the equipment represents the lowest overall cost to the Government.

(c) ADPE acquired under any plan; e.g., fixed term, extended term rental, or other such plan, wherein payments are still due shall be subject to the same conditions as leased ADPE in this Part 201–33.

(d) Since excess leased ADPE accrues substantial purchase option credits, agencies shall consider this equipment as a replacement for installed leased ADPE which has accrued fewer credits to the Government.

(e) When competing requirements exist for excess ADPE, GSA will determine the assignment of such ADPE to any agency on the basis of the greatest economic advantage to the Government.

§ 201–33.003–3 Reporting excess or exchange/sale ADPE.

Upon determination by a Federal agency that Government-owned or leased ADPE is excess to its needs or Government-owned ADPE will be replaced pursuant to the exchange/sale authority of FPMR Part 101–46, this information shall be reported as set forth in § 201–33.011.

§ 201–33.004 Availability list.

GSA publishes and distributes an availability list to inform Federal agencies of available excess and exchange/sale ADPE. This list is published approximately every 2 weeks.

(a) Agencies shall ensure the widest possible distribution of availability lists to achieve full consideration for reutilization of available ADPE.

(b) Requests for additions, changes, and deletions to the mailing list for the availability list shall be made to the General Services Administration (KHE), Washington, DC 20405. Agencies sponsoring contractors or grantees, when forwarding requests for distribution of the availability list to such contractors or grantees, shall include the appropriate grant or contract number in their request.

(c) Requests concerning the availability of ADPE or for copies of the availability list shall be addressed to GSA (address in § 201–33.004(b)).

§ 201–33.005 Want list and holds.

GSA maintains records of want list requirements and holds as defined in § 201–2.001. Requests to establish want list requirements or holds may be made by telephone or letter (address in § 201–33.004(b)).

(a) Want list requirements are maintained by GSA for a period of 6 months. When excess ADPE becomes available, GSA will notify the requesting agency. If the agency determines that the excess ADPE will satisfy the need, the want list requirement will be canceled and a hold established as indicated in paragraph (b) below. Want list requirements are automatically canceled 6 months from the date they are established. Agencies shall renew want list requirements if they are not satisfied during the 6-month period and the equipment is still desired.

(b) GSA, in response to requests of Federal agencies, will establish holds on excess ADPE which is available for reutilization. Holds are established in numerical sequence based upon the time requests are received. Excess ADPE will be transferred to the agency having the first recorded hold provided a properly completed SF 122, Transfer Order Excess Personal Property, is received by GSA within 15 workdays from the date the hold was established and that no other recorded requirement has compelling factors or will result in greater economic advantage to the Government.

§ 201–33.006 Requests for transfer of excess ADPE or exchange/sale ADPE.

Requests for transfer of excess ADPE or reimbursable transfer of exchange/sale ADPE between Federal agencies shall be accomplished in accordance with this Part 201–33 by completing an SF 122, Transfer Order Excess Personal Property. (Transfers of excess ADP supplies and support items with a unit OAC of $1,500 or less shall be accomplished by the Federal Property Resources Service in accordance with FPMR Subpart 101–43.3.) The SF 122 shall contain the name and telephone number (commercial and FTS) of the agency official to be contacted regarding transportation details.

(a) The SF 122 (illustrated in Appendix E) shall be signed by an authorized official of the requesting agency when the ADPE is to be used by the agency or by a Federal contractor or grantee of the agency. All SF 122s furnished by a Federal agency for excess or exchange/sale ADPE to be used by the agency or by Federal contractors shall provide the contract number under which the excess or exchange/sale ADPE is to be acquired and the expiration date of the contract. All SF 122s furnishing excess ADPE to project grantees shall affirm that the transfer is requested for use by a project grantee in accordance with this Part 201–33 and shall include the name of the project grantee, the grant number, the scheduled date of grant termination, and the purpose of the transfer. If a transfer is being requested pursuant to § 201–33.010–2(e), the transfer order shall certify that, upon transfer of the ADPE, the granting agency will deposit to miscellaneous receipts in the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the cost of care and handling.

(b) When excess owned ADPE is to be used for maintenance by redundancy or cannibalization for a parts source of supply, a statement to indicate such use shall be included on the SF 122. When title to excess owned ADPE is to be vested in a Federal grantee or title is to otherwise pass from the Federal Government, a statement to indicate this fact shall be included on the SF 122.

Title will not be transferred unless such a statement is included. Preference will be given to Federal agency requests and to requests which will retain title in the Federal Government.

(c) An SF 122 used for requesting excess leased or exchange/sale ADPE shall contain a statement to indicate either that the requested equipment represents the least overall cost or that a sole source determination has been made and documented. In either case, if the equipment cost exceeds the dollar threshold established in Part 201–23, then a delegation of procurement authority is required. Federal agency requests for the provision of excess to satisfy contractor requirements will be considered secondary to Federal agency requirements.

(d) The original and four copies of the SF 122 shall be submitted for approval to the General Services Administration (KHE), Washington, DC 20405.

(e) GSA will forward the original of the approved SF 122 to the holding agency and one copy to the requesting agency.

(f) If the approved SF 122 is for the transfer of excess leased ADPE, the requesting agency shall provide appropriate notice to the supplier in accordance with the applicable contract.

(g) If the transfer order (approved SF 122) does not contain complete shipping instructions, the requesting agency shall transmit such instructions to the holding agency within 15 workdays after receipt of the transfer order in the case of domestic shipments, or 45 workdays in the case of export shipments.

(h) The holding agency shall inform GSA of failure to receive shipping instructions.

(h–1) When the SF 122 requests shipment of equipment outside of the 48 conterminous States, the requesting agency may be required either to arrange shipment from the holding site or to arrange shipment from a specified point of debarkation within the 48 conterminous States.

(i) When the approved SF 122 indicates the ADPE is to be picked up by the requesting agency, the shipment shall be accomplished within 20 workdays from the time the requesting agency is notified by the holding agency that the shipment is ready. The holding agency shall inform GSA when the ADPE is not picked up within the allotted time.

(j) The holding agency shall ship or deliver the excess ADPE within 20 days after receipt of the SF 122 or receipt of complete shipping instructions as provided in § 201–33.006(g), whichever is later. If for any reason the holding agency is unable to ship or deliver within this established time frame, the holding agency shall promptly inform the requesting agency of the reason for delay and provide a revised shipping or delivery date.

(k) Operating manuals, parts lists, circuit or wiring diagrams, maintenance records, logs or other instructional or informational publications pertaining to the ADPE shall be shipped with the equipment.

(l) All cables, terminators, junction boxes, or other devices used with the ADPE shall be identification tagged, itemized on packing lists, and shipped with the equipment.

(m) The holding agency is responsible for billing and collecting the reimbursement requested when reimbursement under the exchange/sale authority FPMR Part 101–46 or other authority.

§ 201–33.007 Care and handling of excess or exchange/sale ADPE.

(a) The reporting or holding agency shall be responsible for and bear the costs of care and handling or excess or exchange/sale ADPE pending disposition. In cases where reported Government-owned excess ADPE has potential for replacement of leased ADPE, GSA will require the holding activity to obtain a certificate of maintenance acceptability or an estimate to refurbish. If the holding agency has allowed the maintenance contract on ADPE to lapse and/or allowed the warehousing of ADPE and if subsequent refurbishment for purposes of reutilization is required, the holding agency shall be responsible for those refurbishment charges. Only direct costs incurred incident to a transfer (such as packing, loading, and transporting) shall be borne by the requesting agency when billed by the holding agency. Overhead or administrative costs, equipment disconnect charges, and other costs not directly related to and resulting solely from requests for transfer shall not be included. The requesting agency shall be responsible for any movement or temporary storage required after the date the transfer is approved; transportation of ADPE to the requesting agency; and rental costs, if any, for excess leased ADPE over the allowable free rental period in the applicable contract. Any question or controversy regarding responsibility for costs shall be referred for resolution to the General Services Administration (KHE), Washington, DC 20405. The holding agency is not required to retain excess leased ADPE in a lease status when the reporting requirements of § 201–33.011 have been satisfied.

(b) When it is necessary to place ADPE in temporary storage, such ADPE shall be properly packed and placed in an area that is protected from the elements and unauthorized cannibalization. The movement and storage of ADPE shall be supervised by personnel specializing in movement and storage.

§ 201–33.008 Donation and sale of surplus ADPE.

Government-owned ADPE reported in accordance with § 201–33.011 and not reutilized by Federal agencies shall be held by the reporting agency pending compliance with the requirements of FPRM Parts 101–44 and 101–45.

§ 201–33.009 Use of the ADP Fund.

(a) Excess Government-owned ADPE having a fair market value, as may be announced in the ADPE Availability List, and which is to be reutilized within the Federal Government, may be transferred to the ADP Fund. Such ADP Fund equipment will be leased to requiring agencies at a cost that represents the least cost alternative available to agencies.

(b) When excess leased ADPE with purchase option credits or exchange/sale ADPE can satisfy agency data processing requirements, GSA will consider using the ADP Fund to purchase the equipment for the requesting agency.

§ 201–33.009–1 General conditions of an ADP Fund lease.

The leasee shall—

(a) Be responsible for all charges, if any, for transportation, rigging and drayage, packing, and crating of equipment under the lease agreement;

(b) Be responsible for the expense of any necessary alterations or attachments subsequently installed on the equipment;

(c) Be responsible for any expenses necessary to remove any attachment installed under paragraph (b) of this section if requested by the lessor;

(d) Arrange and pay for any technical equipment modifications;

(e) Pay for equipment maintenance (The equipment shall be kept under continuous maintenance during the period of the agreement.);

(f) Provide written notice to GSA prior to any relocation of equipment to other sites;

(g) Be responsible for periodic confirmation of detailed property accountability records, which shall be maintained by GSA; and

(h) Retain use of the equipment as long as required under the terms and conditions of the agreement. (Ownership

of the equipment shall remain with the ADP Fund.)

§ 201-33.009-2 Reporting ADP Fund equipment excess.

Ninety calendar days before the anticipated release date of ADP Fund equipment, the leasing agency shall notify the General Services Administration (KXMA), Washington, DC 20405, by letter, of its intention to discontinue the lease. An SF 120, Report of Excess Personal Property, clearly marked with the words "ADP Fund" shall be enclosed.

§ 201-33.009-3 Transfer of ADP Fund equipment.

In followup to a telephone reservation of ADP Fund equipment, the requesting agency shall submit a letter of commitment to the General Services Administration (KHE), Washington, DC 20405. This letter shall include the lease term and the dollar amount of the lease agreement (as discussed), the agency point of contact (with address and telephone number), the shipping address and instructions, and the applicable agency appropriation symbol. GSA then will prepare the SF 122, Transfer Order Excess Personal Property, to initiate equipment shipment and will submit the lease agreement and the approved SF 122 to the requesting agency's designated official.

§ 201-33.009-4 Guarantee of ADP Fund equipment.

(a) Agencies participating in the leaseback program shall pay charges for transportation of the equipment to the designated site(s); obtain an estimate of refurbishment to bring the ADP Fund equipment up to maintenance standards; and within 6 months of the date that GSA sends the ADP Fund lease, forward the estimate of refurbishment to the General Services Administration (KHE), Washington, DC 20405.

(b) If GSA authorizes the leasing agency in writing to proceed with refurbishment, GSA will reimburse the agency in the amount authorized for the inspection and refurbishment costs upon receipt of an SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits. GSA will not reimburse the leasing agency for transportation costs.

(c) If GSA decides not to authorize the agency to proceed with the refurbishment on a reimbursable basis, GSA will offer the equipment to the agency "as is" on a no-cost basis. If the agency accepts the offer, GSA will not reimburse the agency for transportation, inspection, or refurbishment costs, and the agency may use the equipment as long as required without reimbursement to GSA. If the agency does not accept this offer, GSA will reimburse the agency for transportation and inspection costs and will forward shipping instructions to the holding agency.

§ 201-33.009-5 Use of the ADP Fund for acquisition of exchange/sale ADPE.

(a) A Federal agency may seek use of the ADP Fund if it determines that the acquisition is economically advisable and the following requirements are met and can be certified.

(1) The applicable provisions of the FIRMR have been complied with.

(2) The agency does not have funds programmed, nor can it reprogram funds for this purpose.

(3) The agency cannot divert funds planned for other ADPE procurements with lesser rates of return, if any, for this purpose.

(4) The proposed acquisition of a new system is consistent with the agency's presently authorized programs, and the need for the ADPE has been approved by OMB. (For purposes of this paragraph, a "new system" is defined as any acquisition other than purchase of presently installed ADPE with like equipment.)

(5) When the procurement action involves purchase of like equipment to replace installed systems, a study shall be made to determine that there is a continued economic justification of in-house ADPE as opposed to alternate sources such as the use of other agency equipment or commercial service bureaus. Agency studies should be consistent with the guidelines of OMB Circular A-76. As required, GSA will forward the agency certification to OMB.

(b) In followup to a telephone reservation (see § 201-33.005) on exchange/sale ADPE proposed to be acquired through the ADP Fund, the requesting agency shall submit a letter of intent to the General Services Administration (KHE), Washington, DC 20405. This letter shall include the projective period of equipment use; the requested terms of reimbursement, e.g., quarterly reimbursement for 3 years; the agency point of contact (with address and telephone number); and the shipping address, instructions, and fund citations for transportation and ADP Fund reimbursement. In addition, there shall be certifications which specify the Federal agency's compliance with the conditions listed in paragraph (a) of this section.

(c) The use of the ADP Fund for the acquisition of exchange/sale ADPE must be approved by GSA.

§ 201-33.010 Use of excess ADPE on cost-reimbursement type contracts and project grants.

This section provides policies and procedures for use of excess ADPE on cost-reimbursement type contracts, grants, and project grants.

§ 201-33.010-1 Use of excess ADPE on cost-reimbursement type contracts.

(a) Federal contractor requirements will be considered secondary to Federal agency requirements.

(b) Excess ADPE can be used to reduce the Government's contract costs and shall be considered by Federal agencies in their cost-reimbursement type contracts. For the purpose of this section the term "cost-reimbursement type contract" means a type of contract providing for payment to the contractor of allowable costs incurred in the performance of the contract. The use of excess ADPE instead of payment offsets allowable costs and thereby reduces the total cost of the contract.

(c) If a contract provides for the use of excess ADPE, it shall also include adequate safeguards to insure the authorized use, maintenance, and return to Government custody of Government-furnished property. Accountability for such property shall be subject to audit by the contracting Federal agency and by the General Accounting Office.

(d) If a determination is made by the contracting Federal agency that the use of excess ADPE will result in a reduction of the contract cost to the Government or in an enhancement of the product or benefit of the contract, excess ADPE may be furnished to a contractor in accordance with § 201-33.006. The transfer order must certify the cost reduction or product enhancement and shall be executed by an authorized official of the contracting agency and forwarded to the General Services Administration (KHE), Washington, DC 20405.

(e) Generally, title to Government-furnished excess property remains vested in the Government; however, certain Federal agencies have specific statutory authority to vest title in contractors. When competing Federal requests are made on an item of excess ADPE, GSA will give the lowest priority to a request which vests title in the contractor.

(f) Upon expiration of a contract, Government-furnished ADPE may be reassigned to other Federal activities within the agency or to its cost-reimbursement type contractors.

§ 201-33.010-2 Use of excess ADPE on grants: Eligibility.

Federal agencies are prohibited from obtaining excess ADPE to furnish to their grantees, except as follows:

(a) Excess ADPE which GSA determines is not needed for donation under FPMR Subparts 101-44.2 and 101-44.4, may be transferred under section 608 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2358).

(b) Excess ADPE may be furnished through the U.S. Forest Service under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a) for use in connection with cooperative State forest-fire-control programs, provided that title to the ADPE is retained in the Government.

(c) Excess ADPE may be furnished in connection with grants to Indian tribes (as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)). Title may be vested in the grantee pursuant to specific statutory authority only.

(d) Excess scientific equipment (which includes ADPE as defined by § 201-2.001) may be transferred pursuant to section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e)).

(e) Excess ADPE may be otherwise transferred with title by Federal agencies to their projects grantees only when all the following conditions apply:

(1) The non-Federal recipient is an institution or organization which is either a public agency as defined in FPMR § 101-44.001-10 or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and

(2) The property will be furnished to the non-Federal recipient for use in connection with a federally sponsored project pursuant to a grant made for specific purpose with a specific termination date, and

(3) Authorization for the project grantee to use excess property is contained in the grant document, and

(4) A determination has been made by the sponsoring Federal agency that the acquisition will result in a reduction of cost to the Government or in enhancement of the product or benefit from the grant, and

(5) The property will not be stockpiled by the project grantee but will be placed into use within a reasonable period of time (as determined by the granting agency) following acquisition, and

(6) Transfer of ADPE will be accomplished in accordance with § 201-33.006 and approved by an authorized Federal official of the granting agency, and

(7) The sponsoring Federal agency deposits in miscellaneous receipts of the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the costs of care and handling.

§ 201-33.010-3 Use of ADPE on project grants: Federal and project grantee responsibility.

The use of excess ADPE furnished to project grantees as provided in § 201-33.010-2 (d) and (e) is also subject to the following provisions:

(a) Grantee accountability for and disposal of such ADPE shall be governed by procedures established by the granting agency.

(b) Federal granting agencies shall limit the amount (in terms of original acquisition cost) of excess personal property transferred to a project grantee to the dollar value of the grant. Transfers in excess of this amount shall be fully justified. Federal approval or disapproval shall be made at a level above the project officer administering the grant.

(c) Federal granting agencies shall ensure that the provisions for use, maintenance, and return to Government custody or other disposal procedures for excess ADPE are included in the grant document.

(d) Federal grantor agencies shall develop and maintain procedures for the prevention or detection of situations involving the nonuse, improper use, or unauthorized disposal or destruction of excess ADPE loaned to or vested in grantees. This responsibility shall include compliance reviews, field inspections, and other enforcement procedures to monitor such property.

(e) Federal grantor agencies shall include the following information in their grant recordkeeping systems:

(1) The number of grantees using excess property;

(2) Total dollar value of property loaned to or vested in all grantees;

(3) Dollar value of property loaned to or vested in each grantee;

(4) Acquisition cost of loaned or vested items;

(5) Dollar value of each grant;

(6) Percentage of acquisition cost of loaned or vested excess property to the dollar value of each grant; and

(7) Date(s) of grant termination.

Note.—Records are subject to audit by the Federal granting agency and by the General Accounting Office.

(f) Except when specifically authorized by statute to vest title in the grantee, Federal agencies, upon termination of a project grant in whole or in part, shall reassign Government-furnished ADPE to other Federal activities within the agency or to its cost-reimbursement type contractors. If no reassignment is made, the ADPE shall be reported as excess by the agency to GSA in accordance with § 201-33.011 and held by the grantee in accordance with §§ 201-33.007 and 201-33.008.

(g) Property obtained by a Federal agency from excess sources for other purposes shall not subsequently be furnished to a project grantee. (See § 201-33.002(d).)

§ 201-33.011 Reporting excess or exchange/sale ADPE.

Excess ADPE or exchange/sale ADPE shall be reported on an original and four copies of SF 120, Report of Excess Personal Property (illustrated in FAR 53.301-120), and when necessary, SF 120A, Continuation Sheet (Report of Excess Personal Property). [Excess auxiliary or accessorial automatic data processing equipment, as defined in paragraph (a)(2) of the definition of "automatic data processing equipment (ADPE)", in § 201-2.001, with an OAC of $1,500 or less shall be reported to the Federal Property Resources Service for regional office screening in accordance with FPMR § 101-43.4801.] Any questions should be referred to the General Services Administration (KHE), Washington, DC 20405, for resolution.

(a) The SF 120 shall be submitted to the above address by the holding agency at least 90 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with FPMR Subpart 101-11.11. Excess ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120, Provided, the reporting format includes an adequate commercial description and other appropriate data required by paragraph (b) of this section.

(b) The SF 120 shall include the appropriate condition code designation as defined in FPMR § 101-43.4801 and shall contain the manufacturer's name, equipment type and model number, and full description of the ADPE to determine whether the ADPE may satisfy another agency's requirement. Since ADPE suppliers have adopted no uniform method of identifying certain ADPE systems, components, features, cables, or other devices, such as terminators and junction boxes used with the equipment, the complete nomenclature for this equipment as used by the supplier shall be identified and reported on the SF 120. Parts or devices shall not be removed after reporting the ADPE to GSA as excess. If any part or device has been removed from the

ADPE, a statement identifying those parts or devices shall be made on the SF 120. In addition, the status of each individual component and feature shall be shown to indicate whether it is leased, purchased, or leased with option to purchase, the fair value shall be shown on the SF 120. The fair value is the difference between the original acquisition cost and accrued purchase option credits. Government-owned and -leased ADPE shall not be reported on the same SF 120.

(c) By the time Government-owned ADPE becomes excess to an agency's needs, it may be obsolete in relation to new technology, or the supplier may no longer produce the equipment or develop and maintain software necessary for the operation of the equipment. Accordingly, information such as the availability of software packages, engineering drawings, maintenance manuals, and other technical literature relating to Government-owned ADPE shall be included on the SF 120.

(d) The words "Exchange/Sale Property" and the statement: "A written administrative determination has been or will be made to apply the exchange allowance or proceeds of sale to the acquisition of similar items by other than lease" shall be displayed prominently on the original and four copies of the SF 120 when reporting ADPE that is to be replaced pursuant to exchange/sale provisions of FPMR Part 101–46. Lease includes the acquisition of ADPE under any plan, e.g., fixed term, extended term rental, or other such plan wherein payments are still due. Without exception, both cash (sale) or exchange (trade-in) offers shall be solicited. The acquisition costs and the reimbursement required, which shall not be greater than the cash (sale) or exchange (trade-in) offer that the reporting agency has received for the specific ADPE, shall be shown on the SF 120. In addition, the following information must be forwarded with the SF 120:

(1) The identity of the offeror of the cash or exchange offer (enclose copy of offer with the SF 120);

(2) The type of replacement equipment;

(3) The method of acquisition for the replacement equipment;

(4) The anticipated purchase price for the replacement equipment;

(5) The delegation of procurement authority (DPA) number assigned by GSA for the replacement equipment if a DPA is required; and

(6) The name and telephone number of the contracting officer. Until this information is received, the equipment will not be entered into exchange/sale screening. Exchange/sale reports received with inadequate screening time (in noncompliance with the 90 day requirement in this § 201–33.011), will be disapproved and entered into screening as excess ADPE. If there is any change to a cash or exchange offer subsequent to the submission of an SF 120, a revised SF 120 indicating the new cash or exchange offer shall be promptly submitted to GSA. Agencies will be advised promptly, in writing, of the date the original or revised SF 120 is received by GSA. Such equipment shall not be sold or exchanged prior to written authorization from GSA. (SF 120 is illustrated at FAR 53.301–120.)

(e) Excess ADPE that is located on or within excess real property falling under the provisions of FPMR Part 101–47 shall be reported in accordance with this § 201–33.011. The SF 120 reporting this excess ADPE to GSA shall be so annotated.

§ 201–33.011–1 Assignment of Automatic Release Date.

GSA will assign an Automatic Release Date (ARD) and a case number to each SF 120 and will promptly advise the reporting agency of this action in writing. When it is necessary to extend an assigned ARD in order to reutilize ADPE, GSA will coordinate such action with the reporting agency.

§ 201–33.011–2 Withdrawal of reports of excess or exchange/sale ADPE.

(a) A written request (letter or amended SF 120) for the withdrawal 120 will normally be approved by GSA only if received within 15 workdays from the date the SF 120 was received by GSA. This request shall reference the assigned GSA case number and provide a statement which indicates the specific use to be made of the withdrawn equipment. Examples of specific use are contained in § 201–33.003–2(a)(2). Disposition of property shall not be made until after approval of withdrawal is received from GSA. GSA will not approve the withdrawal of equipment for cannibalization or maintenance by redundancy until it is first determined that there is not a more economical use within the Government.

(b) Agencies shall not request withdrawal of excess ADPE for other uses unless fully justified in accordance with agency approval procedures and cost benefit analyses which take into account the program and cost benefits to be derived by the new uses of the ADPE, the cost of operating and maintaining the ADPE, and, alternatively, the cost of acquiring and operating other ADPE to serve the same purposes.

(c) ADPE withdrawn in accordance with these provisions which subsequently becomes excess must be reported excess again in accordance with the provisions of § 201–33.011.

§ 201–33.011–3 Corrections to reports of excess or exchange/sale ADPE.

Corrections to previously submitted reports of excess or exchange/sale ADPE shall be made on a properly completed SF 120 which references the assigned GSA case number.

§ 201–33.011–4 Annual reporting requirements.

FPMR Subpart 101–43.47 provides guidance on the annual reporting requirements on the utilization and disposal of all personal property.

PART 201–34—SUPPORTING ADP ACTIVITIES

Sec.

201–34.000 Scope of part.
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201–34.006–1 Magnetic computer tape.
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201–34.006–4 Cleaning and certifying.
201–34.006–5 Maintenance of tape files.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201–34.000 Scope of part.

This part prescribes policies and procedures and provides guidance to Federal agencies regarding specific subjects supporting ADP activities.

§ 201–34.001 [Reserved]

§ 201–34.002 Computer performance evaluation and ADP simulation.

§ 201–34.002–1 The Federal Computer Performance Evaluation and Simulation Center (FEDSIM).

(a) *General.* The Federal Computer Performance Evaluation and Simulation Center (FEDSIM) is operated by the Department of Air Force under a delegation of authority from the Administrator of General Services. It provides technical assistance, support, and service on a reimbursable basis throughout the Federal Government for simulation, analysis, and performance

evaluation of automatic data processing systems and is the primary source of supply for these services.

(b) *Services available.* (1) Services available nationally are composed of FEDSIM resources and FEDSIM monitored contractual services for computer systems simulation and performance evaluation. These services include simulation languages and packages for computer system simulations, software and hardware monitors for computer system performance evaluation, and special software programs designed to support computer system simulation and performance evaluation efforts, such as accounting systems analysis and workload modeling. The Center's services also include ADP support services such as those provided by simulation analysts.

(2) The services that the Center provides to an agency are intended to be temporary in nature and in response to specific questions or problems. A continous simulation and performance evaluation program in support of individual user operations is not intended.

(c) *Policy for obtaining FEDSIM services.* (1) FEDSIM shall be considered by Federal agencies as a source of supply for ADP simulation and computer performance evaluation requirements, services, and products, including but not limited to computer systems simulators and hardware and software monitors. The Center provides using agencies with these ADP services at the least possible cost to the Government.

(2) The Center advises agencies whether (i) FEDSIM resources or FEDSIM contracts are available; (ii) an ADP schedule is available as a source of supply; or (iii) a new acquisition action is necessary.

(3) Any ADP simulation contracts/schedules issued by General Services Administration (GSA) will include provisions requiring that agencies contact the Center for advice before ordering from these contracts/schedules.

(4) If the Center is unable to fulfill the requirement or if the requirement can be more economically fulfilled through commercial sources, the agency may acquire the services.

(d) *Procedures for obtaining FEDSIM services.* (1) Agencies requiring ADP simulation, computer performance evaluation assistance, hardware performance monitors, software performance monitoring packages, or other computer performance evaluation products or services shall contact the Center. The mailing address is:

Department of the Air Force, Federal Computer Performance Evaluation and Simulation Center (FEDSIM), Washington, DC 20330-6340.

(2) The Center, consistent with the lowest cost alternative or combination of alternatives, will take one of the following four actions:

(i) Provide services from its own resources on a reimbursable basis to the requesting agency.

(ii) Acquire, on a reimbursable basis, the necessary support from commercial sources for the requesting agency.

(iii) Advise the requesting agency's acquisition activity how to acquire necessary support from the ADP schedule or other existing contractual instruments or how to initiate an acquisition action for the services.

(iv) Recommend to GSA that GSA acquire required resources for the requesting agency (where unusual legal or acquisition policy issues so dictate).

(3) If no action is taken by the Center within 20 workdays after acknowledgment of receipt of full information from an agency involving a request for services, the agency may proceed without further reference to the Center.

(e) *GSA responsibilities.* GSA will periodically reimburse the Department of Air Force from the Automatic Data Processing Fund for its cost applicable to the operation of the Center. GSA will bill users for services provided by the Center.

§ 201-34.002-2 Joint Policy Committee for ADP Simulation.

A Joint Policy Committee for ADP Simulation has been established to provide overall policy guidance for management of the Center. Representatives from the Department of Defense, Department of the Air Force, National Bureau of Standards, and GSA are permanent members of this committee. Temporary membership is extended to agencies that are major users of the services provided by the Center. The Joint Policy Committee reviews and approves rates for services provided by the Center and approves requests for equipment or services required for operation. Disagreements arising between users and the Center which cannot be resolved are to be referred to the Joint Policy Committee for resolution.

§ 201-34.003 [Reserved]

§ 201-34.004 Environmental and physical security of data processing facilities.

Provisions regarding environmental and physical security of data processing facilities are located at Subpart 201-7.2.

§ 201-34.005 [Reserved]

§ 201-34.006 Care and handling of magnetic computer tape.

This § 201-34.006 provides guidelines to be used by Federal agencies in the care and handling of magnetic computer tape. Assistance regarding the guidelines is available from the General Services Administration (KMA), Washington, DC 20405.

§ 201-34.006-1 Magnetic computer tape.

Magnetic computer tape is a thin strip of oxide-coated plastic material used in certain computer systems for storage of large volumes of data. In use, the tape is passed across a read/write head of a computer input/output device and magnetic indications or bits are placed in the tape in the form of magnetically polarized spots. The intimacy between the tape and the read/write heads is critical. For example, when used at 800 bits per inch the separation should not exceed 0.00014 inch. If the separation is increased to 0.00046 inch, the tape will not read or write. That amount of separation can easily be caused by foreign particles on the tape or damage to it. It is, therefore important that the procedures provided in this § 201-34.006 for the care and handling of magnetic computer tape be adhered to as a means of minimizing unproductive downtime and related costs caused by dirty or damaged tapes.

§ 201-34.006-2 Errors.

(a) A point at which tape will not read or write is called an "error." This could be an area where the oxide is missing; the tape is wrinkled, creased, or has edge damage; or where something has adhered to the oxide which forces the surface of the tape to be moved away from the read/write head. An ADP operating system (software) will normally respond to an error condition by stopping the tape, backspacing, and attempting repeatedly to read or write. This is a costly operation even if recovery is possible without rerun. In a typical situation it would be more economical to use a new tape than to run 50 passes of a tape with 20 recoverable errors. The cost of reruns necessitated by nonrecoverable errors may drastically reduce the acceptable number of error conditions which should be tolerated on tapes for particular applications.

(b) For increased effectiveness and efficiency in ADP operations, agencies should maintain statistics on tape errors for each magnetic computer tape used. Statistics should also be collected for each tape drive to assist in spotting individual tape drives that are damaging

tape or causing false indications of tape errors. Data on the number of tape errors and the number of retries made in an effort to force the tape to read or write at an error location can be used (1) to determine whether a tape containing errors should be discarded or retained and restored by cleaning; and (2) as an indication of dust and other environmental conditions within the installation requiring corrective action.

§ 201-34.006-3 Care and handling.

(a) Reels of magnetic computer tape shall be handled only when necessary since each handling increases the possibility of damage to the tape. While it is inevitable that magnetic computer tape will acquire errors, tape errors can be minimized by proper handling. Canisters or wraparound rings should be used to protect the reel and tape during handling and storage. Maximum protection is afforded by use of the canisters usually supplied by the tape manufacturers, since those canisters provide a dust-free environment and support the reel by the hub. However, many ADP facilities use wraparound rings instead of canisters because of savings in storage space. While the wraparound rings do not afford the same dust protection or physical protection provided by the canisters, they can be effective when handled properly. When wraparound rings are used, the reels shall be handled in such a manner as to prevent the reel flanges from being squeezed and causing tape-edge damage. Care should be taken also to insure that proper size rings are used and that they are not defective, for either condition may cause tape-edge damage. Before the rings are removed, dust accumulations on the exposed reel flanges should be removed with a dust absorbent cloth to prevent the dust from contaminating the tape. This dusting should ordinarily be performed by the tape librarian before the tape is issued.

(b) Magnetic computer tape, whether protected by canisters or wraparound rings, should be handled in accordance with the following basic safegaurds:

(1) Tape should be stored in a temperature and humidity environment equivalent to that of the computer room in which it will be used or kept 24 hours in such an environment before being used.

(2) Tape should be stored in a vertical position. When not in use, tape should not be exposed outside of its protective container.

(3) Empty tape canisters should not be left open to permit entry of dust or other contaminants. Wraparound rings should be hung in a clean area when not in use.

(4) A clean stopper should always be used with tape canisters.

(5) Rubber stoppers should never be used with wraparound rings as the extra thickness may emboss the tape.

(6) Tape reels should always be handled by the hub and never by the flanges. They should be laid down flat and never tilted or hit on the edge. If dropped, they should be checked immediately for cracked flanges and the tape should be inspected as soon as possible for edge damage.

(7) Takeup reels should be removed periodically and checked for dirt or other contamination inside the flange and hub areas. Such reels should also be checked periodically for signs of warping or cracks at the hub.

(8) Tape leaders should not be left to lie on a table or floor or exposed to contaminating surfaces.

(9) Tape drives should be checked periodically for contamination. As a minimum requirement, the entire tape path should be cleaned after every 8 hours of operation or more frequently if recommended by the manufacturer.

(10) Read/write heads, braking and driving capstans, and pulleys should be cleaned commensurate with use and checked daily for surface burrs, nicks, or distortions which may scar the tape.

(11) Vacuum columns should be checked daily during the course of operation for accumulation of foreign matter at the bottom. In addition to being a possible source of contamination, accumulations may impede the vacuum and affect ability of the tape drive to properly handle the tape.

(12) The recording surface of a good tape should never be touched between the BOT indicator and the EOT indicator. BOT and EOT means Beginning of Tape and End of Tape, respectively. When tape is being mounted, the hub should be pushed rather than the flanges. Tape should never be thrown or carelessly handled.

(13) Transport of magnets or magnetic materials into or through computer rooms and tape libraries shall be forbidden. Damage to recorded data can occur when magnetic materials come in direct contact with the tape.

(14) Tape recordings may be accidentally erased if brought into very close proximity to electric motors, aircraft power cables, or into the path of radar signals. The possibility of such exposure should be avoided. The greatest potential for accidental erasure exists when the tape is in transit, therefore, packaging should insure a clearance of 1½ to 2 inches between the tape and the external walls of the container. Packaged tape should be conspicuously labeled "Magnetic Tape" and bear an appropriately worded warning against exposure to magnetic fields, radiation, heat, and other similar conditions. With respect to metal detection devices in use at airports, arrangements should be made for physical inspection of packages containing magnetic computer tape instead of inspection by the electronic detection devices which may destroy any data recorded on the tape.

(c) The environment in which tape is used or stored shall always be as clean as possible because friction between tape and guide surfaces on the tape drives creates an electrostatic charge which attracts airborne particles to the tape. Particles of only 0.00046 inch in size can cause a tape error. Therefore, the elimination of dust, lint, or other foreign matter from equipment in tape libraries, tape storage areas, and tape rehabilitation areas is necessary for efficient operation. The cleanliness of equipment, floors, and contiguous areas, and the control of temperature and humidity within tolerances prescribed by tape equipment manufacturers are essential. In addition to the computer room environmental control procedures provided in § 201-34.004-3, the following safeguards shall be observed:

(1) Traffic in and out of tape libraries, tape storage areas, and tape rehabilitation areas shall be kept to a minimum. Smoking, eating, and drinking in such areas shall be prohibited.

(2) Tape libraries, tape storage areas, and tape rehabilitation areas shall be maintained as free from dust as possible. Air-conditioner filters should be of a type approved by competent authority; e.g., Underwriters Laboratories, for use with tape systems and checked frequently, particularly if an excessive buildup of dust appears on equipment or is otherwise evident. Particular attention shall be given to fiberglass filters since they often fail to prevent the penetration of fine silts and tend to broadcast particles of fiberglass which may be attracted to the tape. For replacement of filters or assistance in dust control, the GSA buildings manager, or other official controlling or operating the building, shall be contacted.

§ 201-34.006-4 Cleaning and certifying.

(a) Magnetic computer tape which contains error conditions frequently can be restored to usefulness by cleaning and/or certifying. The greatest accumulation of tape errors is usually in the first 100 feet of a reel. When this is the case, the most appropriate action is to cut off the contaminated area.

relocate the BOT indicator, and continue to use the tape. Usually, the reduced length will not detract from its usefulness. When the tape errors continue throughout the length of the tape, it should be determined if the errors are caused by physical distortion. Physical distortion is usually the result of careless handling and can rarely be corrected. Such errors can be seen as wrinkles, creases, or turned-up edges. Errors, however, caused by foreign matter or self-generating oxide and tape backing ware usually can be removed since they are the result of the accumulation of microscopic particles of foreign matter on the tape surface.

(b) There are three processes in the rehabilitation program for restoring tape. The equipment and restoration procedures are described briefly, as follows:

(1) *Tape cleaning.* Tape may be cleaned by using tape cleaning equipment which passes the tape over a knife edge to remove any contaminants from the oxide surface. This equipment can remove approximately 90 percent of the tape errors caused by dirt or redeposits of oxide or backing material. Also the tape pile is smoothly wound as a result of precision winding and programed tension winding. Tape cleaning equipment of this type is capable of cleaning approximately six tapes per hour, including setup and takedown time. One operator should be capable of operating two tape-cleaning machines simultaneously. It should be noted that this process will not indicate the condition of a tape before or after cleaning. This process will not destroy data recorded on the tape.

(2) *Tape cleaning and testing.* Tape may be cleaned and tested by using a cleaner/tester. This equipment will, in addition to cleaning the tape as in (b)(1), above, perform a nonstop inspection by writing on and reading the tape and will automatically determine the condition of the tape by indicating the number of transient and permanent errors and their location. As a result of this process, the condition of the tape is known and a determination can be made to (i) return the tape to operation, (ii) send the tape to certification and repair, or (iii) replace the tape. Tape cleaning and testing equipment of this type is capable of processing approximately four tapes per hour. One operator should be capable of operating two tape cleaning and testing machines simultaneously. This process will destroy data recorded on the tape.

(3) *Tape cleaning and certification.* Tape may be cleaned and certified by using tape certification equipment. Such equipment, in addition to cleaning the tape as in (b)(1), above, locates and stops at every error which was not removed by the initial cleaning and the operator, using a microscope, endeavors to remove the error with a scalpel. The completed certification process usually restores the tape to near error-free condition with the number and location of remaining errors indicated. A proficient operator can operate two certifiers at one time. Certification requires approximately 15 minutes for each reel of tape. This process will destroy data recorded on the tape.

(c) Data processing centers should perform or have tape cleaning and/or certifying performed when economically justified. If cleaning and/or certifying is to be performed, it should conform to the latest applicable specifications developed by the National Bureau of Standards, U.S. Department of Commerce.

§ 201-34.006-5 Maintenance of tape files.

To prevent the loss of valuable information recorded on computer magnetic tape, in addition to the other stipulations of this § 201-34.006 the following standards shall apply to the maintenance of tape files that are scheduled for long-term retention:

(a) Tapes shall be tested and certified within at most 6 months before they are used to record information for long-term retention.

(b) When tapes are written, they shall be verified as error free.

(c) For tapes in inactive storage, a 3 percent statistical sample of all reels of archivally valuable tape files shall be read annually to identify any loss of data and to discover its causes. Measures shall be taken to eliminate the causes of errors. Tapes with 10 or more errors shall be replaced and, when possible, lost data shall be restored.

(d) For tapes in active use, whenever 10 or more errors occur within a reel, the tape shall be examined to determine the causes of the errors. When the errors are due to permanent tape damage, the file shall be transferred to certified tape. When the errors are correctable, appropriate measures such as cleaning and rewinding under programed tension shall be applied.

(e) To prevent loss of information due to changing technology or to the aging of the storage medium, when appropriate, files shall be rewritten and/or transferred to another machine-sensible medium.

19. Parts 201-35, 201-36, and 201-37 are removed and reserved to read as follows:

PART 201-35—[RESERVED]

PART 201-36—[RESERVED]

PART 201-37—[RESERVED]

20. Parts 201-38, 201-39, 201-40, and 201-41 are added to read as follows:

PART 201-38—MANAGEMENT OF TELECOMMUNICATION RESOURCES

Sec.

201-38.000 Scope of part.
201-38.001 General. [Reserved]
201-38.002 Planning.
201-38.003 Controlling and reviewing. [Reserved]
201-38.004 Privacy.
201-38.005 Security.
201-38.006 Standards.
201-38.007 Use of telecommunication services.
201-38.008 Use of toll-free telephone services.
201-38.008-1 Agency responsibilities.
201-38.008-2 GSA responsibilities.
201-38.009 [Reserved]
201-38.010 Analysis of data communication requirements. [Reserved]
201-38.011 Agency surveys and inventories of telephone station equipment.
201-38.011-1 Guidelines.
201-38.012 [Reserved]
201-38.013 [Reserved]
201-38.014 Telecommunication requirements.
201-38.014-1 Subcommission of requirements to GSA.
201-38.014-2 GSA actions.
201-38.014-3 Review of proposed determinations by the Office of Management and Budget.
201-38.015 Competition.
201-38.016 Acquisition policies.
201-38.017 GSA provided service through the FTS.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-38.000 Scope of part.

This part prescribes policies and procedures for the management of telecommunication resources.

§ 201-38.001 General. [Reserved]

§ 201-38.002 Planning.

Agencies shall follow applicable provisions of Part 201-16 in the management of telecommunication resources.

§ 201-38.003 Controlling and reviewing. [Reserved]

§ 201-38.004 Privacy.

Agencies shall follow applicable provisions of Part 201-6 regarding telecommunication privacy and related matters. Policies and procedures regarding listening-in or recording telephone conversations are also in Part 201-6.

§ 201-38.005 Security.

Agencies shall follow applicable provisions of Part 201-7 in the management of telecommunication resources.

§ 201-38.006 Standards.

Agencies shall follow applicable provisions of Part 201-8 in the management of telecommunication resources.

§ 201-38.007 Use of telecommunication services.

The FTS and other Government-provided long distance telephone services are for official Government business only (see 43 Comp. Gen. 163). These networks are to be used for placement of calls instead of the commercial toll network to the maximum extent practicable. Use of Government facilities for personal reasons is prohibited and could result in an employee's being fined, suspended, or dismissed. 5 CFR 735.205 prohibits the use of Government property for other than officially approved activities.

§ 201-38.008 Use of toll-free telephone services.

For the purpose of the FIRMR, toll-free telephone service is any incoming intercity circuit arrangement that allows the public to make long-distance telephone calls to authorized locations at Government expense. This intercity circuit arrangement includes but is not limited to Inward Wide Area Telephone Service (INWATS or dial 800) and foreign exchange (FX) circuits. The service is usually used for providing or obtaining information concerning Government programs, such as social welfare, disaster aid, veterans affairs, income tax, or health. Intercity toll-free telephone service shall be established only when the service is (a) essential to mission accomplishment; (b) necessary to meet program requirements; or (c) required by statute, Executive order, or other regulation.

§ 201-38.008-1 Agency responsibilities.

(a) The acquisition and management of intercity toll-free telephone services should be centrally managed within executive agencies to the greatest extent practicable. Prior approval of a responsible agency official shall be obtained for the acquisition of toll-free services.

(b) The requirement for intercity toll-free telephone service must be approved by GSA. (See § 201-39.006-2 for justification requirements.)

(c) An annual review of incoming intercity toll-free telephone services shall be conducted in accordance with agency procedures. The results of these reviews shall be retained in agency files. As a minimum, this review shall address—

(1) The need for continuing the service at the same level;

(2) Whether the existing toll-free service is the most cost effective method of satisfying the requirement; and

(3) Whether the intended program objectives are being achieved.

§ 201-38.008-2 GSA responsibilities.

(a) GSA maintains a record of all toll-free service requests. The record lists the name of the agency, reasons for the circuits, type of service, number of circuits, terminations, and cost. This record provides a current, central, Government-wide source for managing, engineering, budgeting, and planning; and for public and congressional inquiries.

(b) GSA will assess the technical and operational efficiency and the cost of the requested toll-free service. The purpose of the assessment is to ensure that the requested service is the most effective and/or economical arrangement from the standpoint of the Government's interest relative to the specialized requirement.

§ 201-38.009 [Reserved]

§ 201-38.010 Analysis of data communication requirements. [Reserved]

§ 201-38.011 Agency surveys and inventories of telephone station equipment.

(a) To ensure continuing cost-effective use of telephone station equipment, each agency shall make a complete survey annually. Survey documentation shall be retained in the agency's files until superseded. In addition, agencies shall conduct surveys of installed station equipment where major relocations, reorganizations, or staffing changes impact telephone station equipment cost.

(b) Each agency that obtains GSA consolidated service will receive by May 1 of each year a computerized listing of telephone service as posted in GSA records as of March 31. Agencies shall validate this listing. The validated listing shall be returned to the office specified by the serving GSA region not later than June 30 of each year. GSA will arrange to correct all billing errors as documented by the agency. The errors will be corrected by August 31.

(c) Each agency shall maintain a program to provide for surveys and inventories at those offices not receiving GSA-consolidated service. GSA will provide assistance and training to agencies in developing survey and inventory programs. Upon request and subject to personnel availability, GSA will conduct surveys and major agency-operated systems on a reimbursable basis.

§ 201-38.011-1 Guidelines

(a) *Station equipment analysis.* (1) Telephone station equipment and related features shall be determined by a study of agency operational and mission requirements. The study shall include an analysis of all available station equipment options, with mission, goals, and cost being the main considerations in the final selection. The range of alternative station equipment design for an office will be determined by the capabilities of the serving switching system.

(2) Electronic features, including dual tone multifrequency tone signal dialing, can often be used to functionally replace the electromechanical features provided by multiline key telephones. Charges for electronic features vary widely depending on local tariffs for systems leased from tariffed telephone companies and pricing schemes of vendors of nontariffed telephone systems. Only a systematic analysis of alternative station equipment configurations (all key, all single line, or a combination of key and single line) will provide the basis for selection of the best station equipment application.

(3) Mandatory considerations to be used in the selection telephone station equipment are cost, performance, and the features of alternative telephone systems. These considerations should be used in developing cost/benefit studies.

(b) *Restricted features and equipment.* (1) Features should not be added to existing station equipment without considering the results of the cost/benefit study called for in paragraph (a)(3) of this section.

(2) Auxiliary telephone station equipment and features, including but not limited to automatic dialing equipment, speakerphones, call diverters, automatic ring lines (hot lines), bell chimes, and music on hold, must be justified annually on the basis of mission, goals, and operational need. Agencies shall establish internal regulations to limit the use of auxiliary equipment and features because these features and ancillary devices can add substantially to cost and provide only occasional benefits.

§ 201-38.012 [Reserved]

§ 201-38.013 [Reserved]

§ 201-38.014 Telecommunication requirements.

§ 201-38.014-1 Submission of requirements to GSA.

See Temp. Reg. 4.

§ 201-38.014-2 GSA actions.

See Temp. Reg. 4.

§ 201-38.014-3 Review of proposed determinations by the Office of Management and Budget.

See Temp. Reg. 4.

§ 201-38.015 Competition.

Agencies shall follow the applicable provisions of Part 201-11 in the procurement of telecommunication resources.

§ 201-38.016 Acquisition policies.

Agencies shall follow the applicable provision of Part 201-24 in the procurement of telecommunication resources.

§ 201-38.017 GSA provided service through the FTS.

See Temp. Reg. 4.

PART 201-39—MAJOR CHANGES AND NEW INSTALLATIONS OF TELECOMMUNICATION RESOURCES

Sec.

201-39.000 Scope of part.
201-39.001 General.
201-39.002 Description of major changes and new installations.
201-39.002-1 Local telephone service.
201-39.002-2 Intercity telephone service.
201-39.002-3 Data, facsimile, and record telecommunication services.
201-39.002-4 Communications security service.
201-39.002-5 Radio service.
201-39.002-6 Video and audio service.
201-39.002-7 Teleconference service.
201-39.003 [Reserved]
201-39.004 [Reserved]
201-39.005 [Reserved]
201-39.006 Submission of major changes and new installation requirements to GSA.
201-39.006-1 Local telephone service submissions.
201-39.006-2 Intercity telephone service submissions.
201-39.006-3 Federal Telecommunications System (FTS) intercity voice network service submissions.
201-39.006-4 Data, facsimile, and record telecommunication services submissions.
201-39.006-5 GSA common user data communication system submissions.
201-39.006-6 Other telecommunication services submissions.
201-39.007 GSA action on agency submissions.
201-39.007-1 Action on other than FTS submissions.
201-39.007-2 Action on FTS submissions.
201-39.007-3 Action on data telecommunication service submissions.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-39.000 Scope of part.

This part prescribes policies and procedures regarding the management of major changes to or installations of new agency telecommunication resources in relation to the General Services Administration (GSA) Government-wide responsibilities.

§ 201-39.001 General.

When an Executive agency intends to install, change, relocate, replace, remove, or use telecommunication resources as described in § 201-39.002, the agency shall submit information to GSA as described in § 201-39.006. GSA will, as promptly as practicable, review the intended action, approve or disapprove the request, and notify the agency of its determination.

§ 201-39.002 Description of major changes and new installations.

This section describes major changes and new installations of telecommunication services and facilities that require approval by GSA.

§ 201-39.002-1 Local telephone service.

Local telephone services are—

(a) Installation, relocation, replacement, or removal of a private branch exchange (PBX), CENTREX service, or automatic call distributor (ACD) equiment. A telephone subsystem installed as part of a GSA telephone system is not considered a major change when the subsystem does not duplicate features of the PBX or CENTREX main system. However, these subsystems must be approved by the GSA regional office providing service to ensure that subsystems are compatible with the main system. (Main station lines and station-to-trunk tie lines connected to a subsystem are subject to the same common distributable rate as those connected to the main system.)

(b) Installation, replacement, or relocation of any stand-alone telephone equipment arrangement having the capability or capacity to provide service to 50 or more telephones.

(c) Installation or relocation of 25 or more business lines.

(d) Installation, augmentation, replacement, or removal of tielines between private branch exchanges.

(e) Installation of telecommunication equipment of any type for which termination liability in excess of $50,000 must be assumed on the removal of the equipment and/or service connection charges, plant construction charges, engineering charges, or minimum revenue guarantees in excess of $50,000, or for which the annual lease cost or purchase price (including annual maintenance costs) is in excess of $50,000.

(f) Installation of 200 or more main stations to any PBX that is connected directly to the FTS intercity voice network.

(g) Any change to local telephone service that requires relocation or removal of FTS intercity voice network facilities.

§ 201-39.002-2 Intercity telephone service.

Installation or replacement of voice facilities interconnecting service points located in separate exchange areas. These facilities include Wide Area Telephone Services (WATS), foreign exchange (FX) circuits, and other intercity private lines, including toll-free circuit arrangements which allow the public to make long distance calls at Government expense. These toll-free arrangements include, but are not limited to, Inward Wide Area Telephone Service (INWATS or dial 800) and foreign exchange (FX) circuits.

§ 201-39.002-3 Data, facsimile, and record telecommunication services.

See Temp. Reg. 9.

§ 201-39.002-4 Communications security service.

(a) Installation, relocation, or removal of one or more pieces of communications security and related equipment.

(b) Commencement or discontinuance of maintenance support arrangements (including repair or rebuilding) for communications security and related equipment.

§ 201-39.002-5 Radio service.

Installations involving the extension of or major change to existing systems or the implementation of new systems.

§ 201-39.002-6 Video and audio service.

(a) Installation, change, or removal of all or any significant part of video and audio services or systems when the services (whether purchased or leased) are to be between two or more separate buildings.

(b) Installation, change, or removal of video and audio service (whether purchased or leased) within a single Government building. Video and audio service within a single building used for training, monitoring or technical processes, medical purposes, or for guard and protection purposes are exempted.

§ 201-39.002-7 Teleconference service.

Installation, relocation, or replacement of agency exclusive teleconference facilities that provide for a conference capability of more than five connections. GSA provides conference services at most GSA consolidated telephone systems. Conferences involving more than five connections should be placed through the National FTS Conference Control Center in Washington, DC, telephone FTS, 245-3333.

§ 201-39.003 [Reserved]

§ 201-39.004 [Reserved]

§ 201-39.005 [Reserved]

§ 201-39.006 Submission of major changes and new installation requirements to GSA.

(a) Agency requests for major changes or new installations, together with the required information and justifications, shall be submitted in writing to the General Services Administration (KMA), Washington, DC 20405, or where specified in this Part 201-39, to the appropriate GSA regional office.

(b) The specific information required for each major change or new installation of FTS and non-FTS services or facilities is set forth in the following subsections of this § 201-39.006.

(c) Requests should be submitted to GSA as far in advance as possible. Changes to existing FTS service shall be requested at least 60 calendar days before the implementation date except where agency provided equipment (e.g., interconnect PBX's or agency owned modems) are involved, this lead time shall be at least 90 calendar days.

(d) Minor changes to the FTS may be made by the agencies, provided GSA is given concurrent notification.

(e) When the request involves the ordering of a communication circuit by GSA, the National Communications System (NCS) circuit restoration priority assignment with justification shall be included with the request. If no priority is desired the request should so state. Changes to the priority assignment will be reported to GSA as they occur.

§ 202-39.006-1 Local telephone service submissions.

(a) Requests for local telephone service shall include appropriate information as set forth in the chart entitled "Required Information for Changes in Telephone Service." The chart appears at the end of this Part 201-39.

(b) Requests for ACD's shall include a statement that the monitoring, service observing, or listening-in features have been (or will be) removed or disabled at the time of installation. These features are prohibited; all ACD's shall have the listening-in function removed unless specifically authorized. (See Subpart 201-6.2 for guidance.)

§ 201-39.006-2 Intercity telephone service submissions.

(a) Unless the agency expects the requirement to be satisfied by the FTS (see § 201-39.006-3) requests for intercity telephone service shall describe the intercity requirement and include the average number of messages per business day, average conversation time per message, average operator time per message, and average percent of messages in the busy hour based on 5 workdays. The information should include toll calls originating at either end of the proposed circuit. A copy of the telephone company's monthly statement of the toll calls, including charges originating at either end of the proposed intercity circuit, should be furnished.

(b) Agency requests for intercity toll-free service to be provided to the public shall include a description of the requirement, the program to be supported, the purpose to be served, the type of service required (INWATS, FX, etc.), the location of each number (the telephone number is not required), the terminations, the service band, the estimated monthly cost, the number of circuits serving each number, the proposed usage (number of hours, full period, etc.), and either the title and date of the regulatory document if the service has been directed by a statute, Executive order, or other regulation, or certification of compliance with 31 U.S.C. 1348, unless authorized by statute.

§ 201-39.006-3 Federal Telecommunications System (FTS) intercity voice network service submissions.

Requests for FTS intercity voice network service shall include, in addition to the NCS circuit restoration priority assignment with a justification, or a statement that no priority is needed, the following information—

(a) Street address or building number where access to the network is required;

(b) Name, address, and telephone number of an agency contact for installation coordination;

(c) Toll bills for three recent consecutive months (If the request is for a new location or is based on an anticipated traffic increase, an estimate of the daily number of intercity calls by destination should be submitted.);

(d) The number and length of calls placed over private line services; e.g., FX, WATS, and private line networks;

(e) Seasonal traffic variations, if any;

(f) A description of the present service arrangements, including the number and cost of business lines and extensions, or if for a PBX, the number and cost of main and extension stations, type of equipment, type and quantity of attendant positions, number of central office trunks, FX, WATS, and tielines;

(g) If a change in present service is contemplated, a description of the proposed service arrangement is required in addition to the information requested in paragraph (f) of this section. This description must include the proposed number and cost of main and extension stations, number and type of attendant positions, quantity of central office trunks or business lines, FX, WATS, and tielines; and

(h) Length of time the service is required; i.e., part time (12 hous or less per day) or full time (more than 12 hours per day).

§ 201-39.006-4 Data, facsimile, and record telecommunication services submissions.

See Temp. Reg. 9.

§ 201-39.006-5 GSA common user data communication system submissions.

See Temp. Reg. 9.

§ 201-39.006-6 Other telecommunication services submissions.

(a) *Communications security service.* Prior to submitting a request for communications security service, agencies shall initially submit written notification that a requirement exists for service in the communications security and privacy areas. Subsequent arrangements to satisfy the needs of the agencies will be based on agreements developed by the requesting agency and GSA. GSA provides for the repair and maintenance of secure electronic telecommunications equipment and operates a network known as the Federal Secure Telephone Service.

(b) *Radio service.* The information required by GSA in order to approve or disapprove major changes and new installations to agency radio services is obtained through the Interdepartment Radio Advisory Committee of the National Telecommunications and Information Administration. Separate submission to GSA for radio services approval is not required unless additional information is needed on specific projects. GSA will initiate the action in these instances.

(c) *Video and audio service.* Agencies shall describe the purpose for which the service is required, including a brief

description of the system, a listing of the major equipment items, a listing of the terminal locations of the system, the transmission mode (radio or cable), the hours of service, and the estimated cost for the system.

(d) *Teleconferencing service.* Agency requests for GSA approval of exclusive-use conference facilities should contain sufficient economic and operational detail to evaluate the request in comparison with the Federal Telecommunications System (FTS) teleconference services.

§ 201-39.007 GSA action on agency submissions.

§ 201-39.007-1 Action on other than FTS submissions.

GSA will approve or disapprove other than FTS requests in writing within a 20-workday period provided that sufficient supporting data is furnished. If GSA has taken no action within the 20 workdays after receipt of a request, plus 5 days mail lag, the agency may proceed as if approval has been granted. GSA will notify the agency in writing if unusual or special circumstances will lengthen the period of time GSA needs to complete its evaluation.

§ 201-39.007-2 Action on FTS submissions.

(a) GSA will approve or disapprove the request as quickly as possible and will inform the agency of its determination. If the request is approved, GSA will take action to provide the requested facilities and services.

(b) Intercity telephone service is provided to agencies by GSA through the intercity voice network of the FTS. Each subscriber agency is informed in advance of the charges that will be allocated to it for normal FTS intercity telephone service for the ensuing fiscal year. During the course of the fiscal year new locations may be provided access to the network as a result of an agency request. Prior to providing service, GSA will make an analysis to determine the method of access and required facilities and evaluate the economic feasibility to the Government. Requests for intercity network service will be considered in relation to current and future requirements for local telephone service. Whenever possible, GSA will endeavor to provide both local and intercity telephone service under a single coordinated service arrangement.

(c) For those locations where intercity telephone service is approved, agencies shall assume any additional cost of providing the service beyond that previously provided for the remainder of the current fiscal year and the ensuing fiscal year. For those locations where FTS service is disapproved as not economically feasible on the basis of the information submitted, the agency may formally request that the location be provided service as an essential operational necessity. In such instances, all facility costs associated with the installation shall be borne by the requesting agency for the current and subsequent years.

§ 201-39.007-3 Action on data telecommunication service submissions.

See Temp. Reg. 9.

PART 201-40—CONTRACTING FOR TELECOMMUNICATION RESOURCES

Sec.

201-40.000 Scope of part.
201-40.001 Implementation of acquisition policies.
201-40.002 System acquisitions.
201-40.002-1 GSA acquisition of agency systems.
201-40.003 Implementation of privacy requirements.
201-40.004 Implementation of security requirements. [Reserved]
201-40.005 Implementation of standards.
201-40.006 Evaluation of acquisition alternatives.
201-40.007 Solicitations.
201-40.007-1 Use of GSA model solicitation for PBX systems.
201-40.008 Use of GSA schedules.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-40.000 Scope of part.

This part prescribes policies and procedures for the procurement and contracting of telecommunication acquisitions. The provisions shall be used in conjunction with the Federal Acquisition Regulation (see Subpart 201-1.6).

§ 201-40.001 Implementation of acquisition policies.

Agencies shall follow the provisions set forth in Part 201-24 when contracting for telecommunication resources.

§ 201-40.002 System acquisitions.

§ 201-40.002-1 GSA acquisition of agency systems.

See Temp. Reg. 4.

§ 201-40.003 Implementation of privacy requirements.

(a) When executive agencies contract for telecommunication services subject to the Privacy Act, contracting officers shall include in their solicitations and resultant contracts—

(1) Agency rules of conduct that a contractor and its employees shall be required to follow;

(2) A list of the anticipated threats and hazards inherent in the contemplated acquisition against which the contractor must safeguard;

(3) A description of the safeguards that the agency requires the contractor to provide;

(4) Requirements for a program of Government inspection during performance of the contract that will ensure the continued efficacy and efficiency of safeguards and the discovery and countering of new threats and hazards; and

(5) The contract clauses prescribed in §§ 201-32.302-1 and 201-32.302-2 entitled Rights in Privacy Safeguards (APR 84 FIRMR) and Access to Contractor Facilities and Records—Privacy Safeguards Inspection (APR 84 FIRMR).

(b) Automatic data processing (ADP) and telecommunication management provisions regarding the Privacy Act are in Part 201-6. Related provisions regarding security of Federal ADP and telecommunication systems are in Part 201-7.

§ 201-40.004 Implementation of security requirements. [Reserved]

§ 201-40.005 Implementation of standards.

Agencies shall implement standards set forth in Subpart 201-8.1 when contracting for telecommunication resources (see § 201-8.104).

§ 201-40.006 Evaluation of acquisition alternatives.

See Temp. Reg. 4.

§ 201-40.007 Solicitations.

See Temp. Reg. 4.

§ 201-40.007-1 Use of GSA model solicitation for PBX systems.

See Temp. Reg. 4.

§ 201-40.008 Use of GSA schedule contracts.

See Temp. Reg. 4.

PART 201-41—ROUTINE CHANGES AND USE OF THE FEDERAL TELECOMMUNICATIONS SYSTEM (FTS)

Sec.

201-41.000 Scope of part.
201-41.001 General.
201-41.002 Telephone service.
201-41.003 Telegraph service.
201-41.004 Data services on the FTS intercity voice network.
201-41.005 [Reserved].
201-41.006 Services provided at GSA switchboards.
201-41.007 Directories.
201-41.008 FTS Minimize guidelines.
201-41.008-1 General.
201-41.008-2 FTS intercity voice network.
201-41.009 FTS Precedence System.

Sec.
201–41.009–1 General.
201–41.009–2 Categories of precedence.
201–41.009–3 Application and use.
201–41.009–4 Agency responsibility.
201–41.010 Essential residence telephone service during emergencies.
201–41.010–1 Line load control.
201–41.010–2 Criteria and procedures for obtaining essential service.
201–41.010–3 Procedures for resolution of conflicts.
201–41.010–4 Changes in agency essential service listing.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201–41.000 Scope of part.

This part sets forth policies and procedures regarding agency management of routine changes and the use of the Federal Telecommunications System (FTS) in relation to the General Services Administration (GSA) management responsibilities.

§ 201–41.001 General.

(a) Each agency telecommunication management program (see § 201–41.001) shall provide for implementation of procedures responsive to the provisions of this subpart where the FTS is used.

(b) To allow leadtime for planning and scheduling of work, telecommunications service requests, orders, and installation and building plans should be submitted to the address designated by the GSA regional office serving the agency location as far as possible in advance of the date the service is desired. If necessary, the GSA regional office will provide advice and assistance in completing service request forms and installation plans.

(c) Installations or changes other than those called for in the order shall not be made without amending the existing order or preparing a new order.

(d) At locations served by GSA systems, the cost of exclusive use agency telecommunications equipment and services will be identified and billed to the using agency whenever practical.

§ 201–41.002 Telephone service.

(a) Standard Form 145 (SF 145), Telephone Service Request (Revised 6–82), is to be used by Federal agencies for ordering telephone service from GSA-operated or -managed telephone systems. Federal agencies shall forward all requests for telephone service to the address designated by the GSA regional office.

(b) GSA regional offices will provide guidance and assistance to agencies on the preparation and submission of the SF 145.

§ 201–41.003 Telegraph service.

(a) Orders or requests for changes in and new installations or removal of telegraph facilities shall be submitted by letter, memorandum, SF 145, or appropriate agency purchase order form.

(b) Standard Form 14 (SF 14), Telegraphic Message, is prescribed for use within the United States by executive agencies in preparing Official Government telegrams, teletype messages, and other messages for transmission by wire and cable or radio communications facilities. Instructions for the preparation and use of SF 14 are included as a part of the cited form. Appropriate special forms may by used in lieu of SF 14 when messages are to be transmitted by facsimile and for certain data messages requiring prearranged format.

§ 201–41.004 Data services on the FTS intercity voice network.

The FTS intercity voice network is available for the transmission of data that can be transmitted over unconditioned switched or satellite channels.

(a) *Controls.* Daytime use of the FTS intercity voice network for data transmission is subject to controls to protect the quality of voice transmissions. GSA may require that agencies terminate use of particular circuits for data transmission during normal business hours or when an FTS Minimize (see § 201–41.008) is in effect.

(b) *Prior approval.* No prior approval for the use of the intercity voice network is required when network service is available without modification and the annual cost for transmission of data is less than $50,000. Requests for dedicated access to the FTS intercity network must be approved by GSA in accordance with Part 201–39.

(c) *Cost.* The transmission of data is billed at the same rate as network telephone calls; i.e., each call will be billed by minutes of usage as determined by the network random sample of agency calls. Intercity telephone service is billed quarterly.

§ 201–41.005 [Reserved]

§ 201–41.006 Services provided at GSA switchboards.

GSA will provide telephone and directory information services in connection with all switchboards it operates. This service includes the provision of adequate internal telephone information service for the agencies involved, as well as the handling of calls from the public.

§ 201–41.007 Directories.

(a) Government telephone directories will be provided by GSA to agency users at all GSA switchboards with 200 or more telephone instruments (stations) served, except as provided in paragraphs (b) and (d) below.

(b) Agencies should not duplicate this telephone directory service where GSA provides directories. Where it is determined that it is not economical to provide telephone directory service, GSA will meet basic telephone information service requirements with operator-provided information services. So that GSA can fulfill its service responsibility to the public, agencies must submit changes promptly affecting telephone listings through established local channels.

(c) Standard Form 146 (SF 146), Changes in Telephone Listings, shall be used to request changes in telephone listings. It shall be submitted in accordance with instructions on the form.

(d) GSA normally will not publish telephone directories for agencies located in Washington, DC. However, these agencies, when served by a GSA-operated switchboard, must submit the SF 146 to GSA so that the information service for the public may be maintained.

(e) GSA will publish directories annually unless special service requirements necessitate a more frequent interval.

(f) The cost of printing and maintaining Government telephone directories is included in the local telephone service charge. Agencies are provided directories on a one-per-telephone-instrument basis plus a reasonable quantity of copies (up to 5 percent additional) for administrative purposes. Agencies will be charged at cost for copies above these normal requirements.

§ 201–41.008 FTS Minimize guidelines.

§ 201–41.008–1 General.

This section establishes procedures identified as Minimize for administrative control of voice, data, and record traffic over the FTS during emergency conditions. The section sets forth policies and procedures for Minimize as it relates to the FTS. It implements the Minimize guidelines prescribed by the National Communications System (NCS). The provisions of this § 201–41.008 apply to all Federal agencies. For further information concerning these policies and procedures write to General Services Administration (KNM), Washington, DC 20405.

§ 201–41.008–2 FTS intercity voice network.

(a) *Policy.* GSA has the sole responsibility to impose a Minimize

condition on the FTS intercity voice network. Minimize control will apply to voice and data traffic to specific location and specified telephone area code. Agencies may exercise their internal Minimize notification system, but shall not impose Minimize upon another agency without GSA approval or direction.

(b) *Procedure.* GSA will notify the agency head and communications staff by the most rapid means available when a Minimize condition is in effect on the FTS intercity voice network. GSA regional offices will notify all major agency regional offices in their respective geographical areas of the Minimize condition. The Minimize notice will identify the city, state, and commercial telephone area code affected. The notice will emphasize that only emergency and essential voice and data traffic is to be placed to the affected area. GSA and the GSA regional offices will inform agencies when the Minimize condition is canceled. Minimize, to be effective, requires that agencies curtail as many calls as possible.

(c) *Agency responsibility.* Agency offices are responsible for notifying their central office personnel expeditiously, by whatever means they deem appropriate for their particular operation, when a Minimize condition is imposed or terminated by GSA. Intercity voice network users are to determine when their call meets the description (see § 201–2.001) of "emergency traffic" or "essential traffic." If neither description can be applied, the call shall not be initiated.

§ 201–41.009 FTS Precedence System.

§ 201–41.009–1 General.

This section provides for the establishment of an FTS Precedence System for use in all forms of voice and record communication services provided by GSA on FTS networks.

§ 201–41.009–2 Categories of precedence.

(a) *Flash.* Telephone calls and messages designated "Flash" take precedence over and preempt all other categories and will be handled as fast as possible. Flash precedence is reserved for telephone calls and messages pertaining to command and control of military forces essential to defense retaliation; critical intelligence essential to national survival; conduct of diplomatic negotiations critical to the arresting or limiting of hostilities; dissemination of critical civil alert information essential to national survival; continuity of Federal Government functions essential to national survival; fulfillment of critical U.S. internal security; and Presidential Action Notices essential to national survival during attack or preattack condition.

(b) *Immediate.* Telephone calls and messages designated "Immediate" take precedence over and preempt calls and messages designated "Priority" or "Routine." Immediate precedence is reserved generally for calls and messages pertaining to situations which gravely affect the security of national allied forces; reconstitution of forces in a postattack period; intelligence essential to national security; conduct of diplomatic negotiations to reduce or limit the threat of war; implementation of Federal Government actions essential to national survival; situations which gravely affect the internal security of the United States; civil defense actions concerning direction of the population and its survival; disasters or events of extensive seriousness having an immediate and detrimental effect on the welfare of the population; and vital information having an immediate effect on aircraft, spacecraft, or missile operations.

(c) *Priority.* Telephone calls and messages designated "Priority" take precedence over and preempt calls and messages designated "Routine." Priority precedence is reserved generally for calls and messages concerning information essential to the conduct of Government operations. Such information includes important intelligence information; important diplomatic information; important information concerning the launch, operation, or recovery of spacecraft missiles or movement of naval, air, or ground forces; and information concerning coordination among Government agencies about emergency preparedness functions; major civilian aircraft accidents; maintenance of the health, safety, and welfare of the population; critical public utility services; distribution of essential food and supplies critical to health; and continuity of critical Government functions.

(d) *Routine.* Normal communications which require rapid transmission but do not require preferential handling are considered "Routine." All calls and messages not specifically designated otherwise are considered Routine.

§ 201–41.009–3 Application and use.

Careful selection and assignment of precedence by the system user is of the utmost importance since calls and messages will be handled solely by the precedence designation given to FTS operating personnel.

(a) *Telephone calls.* Precedence telephone calls are handled only by FTS operators. Automatic preemption is not available on the FTS intercity voice network. FTS operators will preempt calls only when necessary to make facilities available for a higher precedence call. FTS operators will provide assistance in handling precedence calls and will require the originator's name, agency identification number, and telephone number being called. FTS users when requested by the operator to terminate a conversation shall do so immediately. Precedence calls will be ticketed and a record of all such calls will be maintained by GSA.

(b) *Messages.* Precedence messages shall be designated by the originator. This precedence is indicated in the heading of the messages by a prosign (letter). Flash messages shall be designated by the prosign "Z"; Immediate messages by the prosign "O"; and Priority by the prosign "P". SF 14 provides a heading space for precedence and should be used by agencies for this purpose.

§ 201–41.009–4 Agency responsibility.

The head of each agency is responsible for designating personnel authorized to use the FTS Precedence System and shall ensure that authorized users adhere to the definitions and instructions contained herein. FTS Precedence System will be in effect on a day-to-day basis, and, therefore, it is essential that calls meet the criteria outlined. Calls and messages shall not be assigned a precedence higher than that described by the criteria.

§ 201–41.010 Essential residence telephone service during emergencies.

§ 201–41.010–1 Line load control.

(a) An arrangement called line load control can be provided at some locations by the public telephone companies so that subscribers having essential emergency functions may encounter a minimum of delay in placing calls from their residences during emergencies. The number of telephones that can be included in this arrangement is limited. Any charges for the line load control arrangement will be borne by the requesting agency.

(b) If a number has been designated "essential," all outgoing calls are put through with minimum delay while retaining generally good service with only slight and intermittent delay to the other general public users.

§ 201-41.010-2 Criteria and procedures for obtaining essential service.

(a) The agency head is responsible for establishing internal procedures necessary to ensure that the selection of employees will be made in accordance with the guidelines in paragraph (b) of this section.

(b) Normal residential telephone service will be adequate in most situations and will be subjected to the imposition of line load control only under the most critical circumstances. Therefore, each employee selected for essential service must have a responsibility or function requiring undelayed outgoing calling capability. Essentially, the person being considered must have an emergency assignment requiring the immediate discharge of responsibilities from that person's home telephone. Rank, grade, or position are not determining factors. Because of the limits of this service, selections should be held to an absolute minimum.

(c) A list of selected employees will be prepared by the agency headquarters or subordinate field office, as directed by the agency head. The residential telephone numbers of selected employees, with names and home addresses, will be listed in alphabetical or numerical order by central office exchange letters or numbers under the appropriate area code number for the geographic area in which the employees reside. A sample agency listing appears below:

Area Code 301:

439-7417 Wm L Brady 8033 New Hampshire Adelphi.
585-7108 Paul C Richards 1137 Fidler Ch Ch.
CO5-0743 John T Byrd 2337 Huron Forest Hts.
WA5-0753 Thomas C Miller 2341 Elm Landover.

Area Code 703:

460-1769 Chas P Rogers 306 Cedar Vienna.
460-3127 John D Louis 4330 Walnut Dr Vienna.
533-8143 Robt W Service 6711 Monroe Vienna.
JE3-9086 RP Harris 1458 Edgewater Fls Ch.
JE4-8926 Wm C Glover 4306 S Glebe Arl.

Listings are required in this format to facilitate handling and processing with the telephone companies involved.

(d) The lists of selected employees will be approved and certified as meeting the guidelines established in this § 201-41.010-2. Certified lists then shall be forwarded to the appropriate GSA regional office, Attention: Director, Telecommunications Division. The GSA regional office will forward the lists to the appropriate telephone company for implementation. (See also Part 201-6.)

§ 201-41.010-3 Procedures for resolution of conflicts.

(a) When a local telephone company receives more requests for essential service than it can accommodate, the appropriate GSA regional office will be notified.

(b) The GSA regional office will resolve the matter with the local or regional offices of the agencies concerned. If the problem cannot be resolved at this level, the information will be submitted to the General Services Administration, Attention: KJ (hereafter referred to as GSA Central Office).

(c) GSA Central Office will contact the agencies' national offices to effect a solution. After resolution, GSA Central Office will notify the GSA regional office concerned, which will then advise the telephone company and the agency offices involved.

§ 201-41.010-4 Changes in agency essential service listing.

The agency or agency field activity is responsible for updating its lists of employees requiring essential service in accordance with instructions of the agency head. Changes in these lists should be forwarded promptly to the appropriate GSA regional office for further action to add or delete these employees from line load control.

21. Parts 201-42, 201-43, 201-44, 201-45, 201-46, 201-47, 201-48, and 201-49 are added and reserved to read as follows:

PART 201-42—[RESERVED]

PART 201-43—[RESERVED]

PART 201-44—[RESERVED]

PART 201-45—[RESERVED]

PART 201-46—[RESERVED]

PART 201-47—[RESERVED]

PART 201-48—[RESERVED]

PART 201-49—[RESERVED]

Appendix A—[Amended]

22. In 41 CFR Chapter 201, Appendix A at the end of the chapter is amended by removing Temporary Regulation 3 dated September 14, 1984 (49 FR 38948, October 2, 1984) and all FIRMR designated Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR), and all supplements thereto, added at the establishment of the FIRMR (49 FR 20994, May 17, 1984); namely, FPR Temp. Regs. 51, 64, and 71 and FPMR Temp. Regs. F-499, F-500/B-6, and F-502.

Dated: December 21, 1984.

Ray Kline,

Acting Administrator.

[FR Doc. 85-1936 Filed 1-29-85; 8:45 am]

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41 CFR Parts 201-23, 201-24, and 201-32

[FIRMR Temp. Reg. 1, Supplement 1]

Teleprocessing Services Program (TSP) Changes

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the Federal Information Resources Management Regulation (FIRMR) Temp. Reg. 1 reissues the regulatory provisions in Temp. Reg. 1. Section and reference captions are revised from those used in the original promulgation (49 FR 22477, May 30, 1984) to be consistent with the integrated text of the FIRMR established by FIRMR Amendment 1. The intended effect is to continue the temporary provisions, without change in authorities, policies, or procedures, until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch (KMPP), Office of Information Resources Management, Telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following FIRMR temporary regulation supplement is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 1—Supplement 1

December 21, 1984

To: Heads of Federal agencies

Subject: Teleprocessing Services Program (TSP) changes

1. *Purpose.* This Supplement 1 changes the section and reference captions in the regulatory provision changes made in Temporary Regulation 1 dated May 3, 1984 (49 FR 22477, May 30, 1984).

2. *Effective date.* The effective date of this Supplement 1 is concurrent with the effective date of Amendment 1 to the FIRMR (April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions.

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201–1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes a new integrated text for the FIRMR. The intent of this Supplement 1 to Temporary Regulation 1 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanations. This two-step process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201–23.104–5 is amended to add paragraph (d), as follows:

§ 201–23.104–5 Authorization for commercial ADP services contracting.

* * * * *

(d) Contract awards under the basic agreement shall be based on blanket or individual delegations of procurement authority. The resulting contract award amount and scope will redefine and limit the applicable authorization from that estimated in the agency procurement request submission or estimate, except as provided in this paragraph (d). The contract "Engineering Changes" provision is designed to accommodate changes to requirements (including equipment and software specifications) to meet changed or increased data processing requirements, to increase economy or efficiency, to improve performance or productivity, or to save energy. Any changes implemented shall be within the scope and systems life of the contract. Increased requirements up to 25 percent of those specified in the contract (including contractually specified options) shall be deemed to be requirements within the scope of this paragraph (d), provided the requirements are elected to be implemented by the contracting officer under the "Engineering Changes" provision. Other requirements shall be treated as new requirements requiring authorization for contracting under this § 201–23.104–5 (see also § 201–32.303(e)).

b. Section 201–24.104 is added, as follows:

§ 201–24.104 Small purchases.

The provisions of FAR Part 13—Small purchase and other simplified purchase procedures, apply when the aggregate amount over the system life of any requirement for commercial ADP services does not exceed $25,000. In addition, for services that are available on multiple award schedule (MAS) contracts under the TSP, agencies may use simplified MAS procedures (see § 201–32.303–3(c)).

c. Section 201–32.302–2 is amended to add paragraph (a) of the clause, as follows:

§ 201–32.302–2 Access to contractor facilities and records—privacy safeguards inspection.

* * * * *

(a) The Government shall be afforded full, free, and uninhibited access to all facilities and installations, and to all technical capabilities and operations, and to all documentation, records, and data bases for the purpose of carrying out a program of inspection to ensure continued efficacy and efficiency of safeguards against threats and hazards to data security, integrity, and confidentiality.

* * * * *

d. Section 201–32.303 is amended to add paragraph (a) and paragraph (e), as follows:

§ 201–32.303 The Teleprocessing Services Program.

* * * * *

(a) *The multiple award schedule (MAS).* (1) GSA periodically establishes a multiple award schedule under which it negotiates offerings including firm rates for services of the participating firms. These schedule contracts are made available for efficient agency acquisition. The MAS provides for incremental discounts based on each firm's total MAS dollar volume of services delivered Government-wide. However, for evaluation purposes, individual selections under the MAS will be based on an assumed "zero volume" for each contractor. Agencies will apply the volume discount for each contractor according to the agency's estimated monthly use of the requirement being evaluated. The MAS defines the terms and conditions under which a purchase order placed by an agency will be performed by the contractor selected by that agency. The MAS terms and conditions can be modified only by GSA. Under the provisions of the MAS, a participating firm may modify its service offerings through a MAS modification procedure. The MAS may be used for justified sole source requirements.

(2) Agencies shall initiate the procedures described in the Teleprocessing Services Program Handbook by notifying TSP MAS firms of their requirements and planned source selection. For all selections under the MAS, an agency has the option of not allocating time for receipt, processing, and distribution of modifications and price reductions, provided it has determined that at least two firms can satisfy the requirement and provided the letter of inquiry states this. (See § 201–32.303–3(d) which also does not permit modifications.) If an agency chooses to disallow modifications, it must document the procurement file to show why disallowing modifications is more advantageous than allowing modifications, e.g., immediate need of service outweighs the potential for lower pricing. The agency shall make the source selection in accordance with the terms of the MAS and shall evaluate, select a source, and issue a line item, time and resources-used, ceiling-price purchase order. The MAS shall not be used for a dedicated teleprocessing system (see § 201–2.001 for definition) requirement; however, portions of a system such as on-line storage and communication ports may be reserved for exclusive use by a single user or group of users. Dedicated system alternatives should not be confused with dedicated use ADPE or software as provided in § 201–24.209.

* * * * *

(e) *Agency management of TSP services.* (1) Agency management is responsible for controlling costs and taking appropriate action when

expenditures for services exceed the estimates and contract ceiling amounts. An essential element in controlling costs is the establishment of procedures to account for and allocate all costs of data processing to the end users according to the services received. Principles for these procedures are set forth in GAO Accounting Pamphlet Number 4 and OMB Circular A-121.

(2) Since the use of TSP services under many TSP basic agreement contracts has substantially exceeded the estimated use and in many instances has resulted in unreasonable and excessive charges compared to the original evaluation, Federal agencies should monitor these contracts on a monthly basis. If the actual use based on expenditures exceeds the projected use by more than 25 percent for two or more consecutive months, a report should be submitted to the requiring official, with a copy to the designated senior official for the agency under the Paperwork Reduction Act. The requiring official should investigate the increased use to determine its cause(s) and develop a plan to correct the situation. Depending upon the extent of the increase, including expected duration, and whether appropriate management action will reduce the use to an acceptable level, it may be necessary for the agency to recompete its requirements. Similar procedures should be implemented for monitoring costs from purchase orders placed under the MAS.

(3) Good agency management of TSP services starts with good planning and the commitment to follow through. Maintaining current requirement specifications, workload estimates, and program packages needed for benchmarking will add flexibility to the ability to locate, respond to, and correct program deficiencies (see also § 201-23.104-5(d)).

(e) Section 201-32.303-2 is amended to add (i) paragraph (b), (ii) paragraph (c)(2), (iii) paragraph (c)(3), and (iv) paragraph (d). The changes made by removing paragraphs (c)(7) and (f) are canceled. These deleted paragraphs are not included in § 201-32.303-2.

§ 201-32.303-2 Scope of the TSP.

* * * * *

(b) *Excluded TSP services.* Exclusively local batch processing services are excluded.

(c) * * *

(2) Technical assistance/analyst services (TA/AS). Includes limited design and development tasks and technical assistance on the use of vendor-provided software packages. Such service shall be used only when optimizing existing application systems, provided such services are incidental to the teleprocessing services being procured and the cost of the TA/AS does not exceed 10 percent or $100,000 (whichever is less) of the total requirement per year (see also § 201-32.303-2(d));

(3) Use of the TSP firm's premium (extra charge) software packages related to a teleprocessing requirement;

* * * * *

(7) [Removed]

* * * * *

(d) *Limitations on TA/AS.* Technical assistance/analyst services (TA/AS) (paragraph (c)(2) of this section) have TSP acquisition dollar limitations that are reflected in both the MAS and BA. Procurement of TA/AS services that exceed the established limitations or that are for purposes other than those stated in paragraph(c)(2) above should be on a maximum practicable competition basis (see also § 201-32.304). The dollar limitation for each teleprocessing requirement is 10 percent of the total value of the requirement per fiscal year, not to exceed $100,000 per year. The requiring agency shall obtain authorization from the GSA TSP contracting officer before placing a purchase order under the MAS or awarding a contract under the BA that includes requirements that are estimated to exceed the above limitations.

* * * * *

(f) *Limitations on software redesign or programming.* [Removed]

* * * * *

f. Section 201-32.303-3 is amended to add (i) paragraph (b)(3), (ii) paragraph (b)(4), (iii) paragraph (c), and (iv) paragraph (d). The change made by redesignating former paragraph (d) is canceled. This paragraph with changed designation is paragraph (e) of § 201-32.303-3.

§ 201-32.303-3 Procedures for acquiring TSP Services.

* * * * *

(b) * * *

(3) Benchmarks are required for TSP requirements that exceed $500,000 per year unless the procuring agency determines that analytical techniques such as paper/technical evaluations will provide the accuracy needed for cost evaluation. The complexity of a benchmark or an analytical technique should be scaled to the value and complexity of the associated procurement. Benchmarks or analytical techniques may be used for annual requirements between $100,000 and $500,000. In this dollar range, minimal benchmarks (functional and/or scenario tests using vendor application software packages, etc.) should be used to the maximum practical extent. The use of benchmarks for requirements under $100,000 annually is not normally cost effective; however, a minimal benchmark may be used if an agency determines that a benchmark is needed as a reasonable basis for cost validation. The agency's benchmark package for requirements over $500,000 annually shall be available to offerors at least 45 calendar days before benchmark performance. However, if the agency is procuring services to fulfill an urgent requirement, a shorter availability period may be specified. The selection of the benchmark workload is critical to the source selection because it will exercise the contractor's billing algorithm, a significant factor in cost determination.

(4) For selections under the MAS, prices, rates, and discounts applied in the calculation of system life cost shall conform to the terms of the schedule agreement. Related ADP support service costs for selections under the MAS, except for conversion services and system design and programing, shall be derived directly from the pricelists.

* * * * *

(c) *Low cost procurement.* When the system life estimated cost does not exceed $25,000, the MAS method provides a simplified procedure that agencies may use for selecting teleprocessing services. Requirements shall not be fragmented in order to circumvent normal TSP procedures.

(d) *Abbreviated procedures.* When the annual cost is not expected to exceed $50,000, an agency may elect to use a special abbreviated procedure under the MAS. This abbreviated procedure permits considering a limited number of MAS contractors which the selecting agency's contracting officer deems to be sufficient to satisfy the agency's requirements and meet the objective of maximum practicable competition. This abbreviated procedure does not allow letters of interest, modifications of any type, or benchmarking. The technically acceptable MAS evaluated as the lowest overall cost, price and other factors considered, shall be selected from the MAS contractors which were considered. In addition, when conducting a reprocurement with an expected annual cost not in excess of $50,000, an agency may limit the selection to contractors with compatible systems, provided the agency contracting officer determines that the

selection will achieve maximum practicable competition.

* * * * *

6. *Other Temp. Reg. 1 changes.* The change made by paragraph 5c of Temp. Reg. 1 is canceled because the change incorporated a reference to FPR § 1–3.107. That provision was superseded by Federal Acquisition Regulation 15.105–2 (see FAC 84–3) but was withdrawn by Federal Acquisition Circular (FAC) 84–4. The original FPR § 1–4.1206–5 provisions are codified at § 201–11.002–2.

7. *Agency actions.* Pending the issuance of a permanent amendment of the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR Temp. Reg. 1.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* Inquiries should be directed to Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, Telephone (202) 566–0194 or FTS, 566–0194.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1937 Filed 1–29–85; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Part 201–8

[FIRMR Temp. Reg. 2, Supplement 1]

Federal Hardware, Software, and Telecommunication Standards

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the Federal Information Resources Management Regulation (FIRMR) Temp. Reg. 2, reissues the regulatory provisions in Temp. Reg. 2. Section and reference captions are revised from those used in the original promulgation (49 FR 24726, June 15, 1984) to be consistent with the integrated text of the FIRMR established by FIRMR Amendment 1. The intended effect is to continue the temporary provisions, without change in authorities, policies, or procedures, until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) codified provisions.

Expiration date: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following FIRMR temporary regulation supplement is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 2—Supplement 1

December 21, 1984

To: Heads of Federal agencies

Subject: Federal hardware, software, and telecommunication standards

1. *Purpose.* This Supplement 1 changes the section and reference captions in the regulatory provision changes made in Temporary Regulation 2 dated May 21, 1984 (49 FR 24726, June 15, 1984).

2. *Effective date.* The effective date of this Supplement 1 is concurrent with the effective date of Amendment 1 to the FIRMR April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions.

3. *Expiration date.* March 31, 1986.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201–1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes a new integrated text for the FIRMR. The intent of this Supplement 1 to Temporary Regulation 2 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanations. This two-step process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201–8.105–20 is added, as follows:

§ 201–8.105–20 FIPS PUB 60–2, Input/Output (I/O) Channel Interface.

(a) FIPS PUB 60–2 defines the functional, electrical and mechanical interface specifications for connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, with a companion standard for power control (FIPS PUB 61–1), defines the hardware characteristics for the I/O channel interface. Three related standards specify how the interface is to be used when connecting particular classes of peripheral devices. They are FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems; FIPS PUB 63–1, Operational Specifications for Variable Block Rotating Mass Storage Subsystems; and FIPS PUB 97, Operational Specifications for Fixed Block, Rotating Mass Storage Subsystems.

(b) FIPS PUB 60–2 is applicable to the acquisition of all ADP systems and peripheral subsystems acquired by the Federal Government except minicomputer, microcomputer, and other small-scale systems that are specifically excluded by the National Bureau of Standards (NBS). The standard contains applicability, implementation, and waiver provisions. A list of currently excluded systems and the current criteria for excluding them is developed, maintained, and periodically distributed to Federal agencies by NBS and is available from NBS upon request.

(c) The correct operation of interfaces required to conform to FIPS PUB 60–2 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces is maintained and periodically distributed to Federal agencies by NBS upon request. It

identifies each interface verified and the conditions under which it was verified.

(d) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 60-2 (Input/Output (I/O) Channel Interface) (MAY 84 FIRMR)

Unless otherwise excluded as specified in FIPS PUB 60-2 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 60-2, ADP systems and peripheral subsystems that may result from this solicitation, must conform the FIPS PUB 60-2 for the connection of computers to those general classes of peripheral subsystems (such as magnetic tape or disk subsystems) for which operational specifications have been issued and are in effect. The correct operation of these system's conforming interfaces must be verified before the acceptance of all applicable ADP equipment. Arrangements for verification may be made according to procedures issued by the National Bureau of Standards. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Verification of I/O Channel Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform with FIPS PUB 60-2 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 60-2.

(End of requirement statement)

(e) Verification procedures regarding FIPS PUBS 60-2 and 63-1 were published on December 11, 1979 (44 FR 71445). A verification procedure checklist was also published on February 27, 1980 (45 FR 12662). Questions may be directed to the Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, NBS, Gaithersburg, MD 20899.

b. Section 201-8.105-23 is added, as follows:

§ 201-8.105-23 FIPS PUB 63-1, Operational Specifications for Variable Block, Rotating Mass Storage Subsystems.

(a) FIPS PUB 63-1 defines the peripheral device dependent operational interface specifications for connecting variable block, rotating mass storage subsystems, such as magnetic disk equipment, to ADP systems. It is to be used with FIPS PUB 60-2, I/O Channel Interface, and FIPS PUB 61-1, Channel Level Power Control Interface. FIPS PUBS 60-2 and 61-1, plus this standard, provide for full plug-to-plug interchangeability of variable block, rotating mass storage equipment as a part of ADP systems. FIPS PUB 63-1 applies to the acquisition of variable block magnetic disk equipment if use of FIPS PUB 60-2 and 61-1 is required. If waivers apply to a solicitation, the requirements document shall so state.

(b) NBS must verify the correct operation of interfaces required to conform to FIPS PUB 63-1 before the applicable ADP equipment can be accepted. NBS establishes, maintains, and distributes to Federal agencies a list of equipment with verified interfaces; it is also available from NBS upon request. The list identifies each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) An alternative to FIPS PUB 63-1 is FIPS PUB 97, Operational Specifications for Fixed Block, Rotating Mass Storage Subsystems. If either standard is used, the other is not required. Additional operational specifications are available from NBS in a report titled, "Additional Operational Specifications for Variable Block, Rotating Mass Storage Devices (FIPS PUB 63-1 SUP)," which provides track format definition and specifies the sense information format and content for particular classes of variable block, rotating mass storage devices. Whenever FIPS PUB 63-1 is specified, conformance to the supplemental device dependent characteristics contained in the above mentioned NBS report also may be required at the option of the procuring agency.

(d) When an agency determines that the nature of the requirement is such that conformance to the supplemental device dependent characteristics contained in the report is required, the requirements provision in paragraph (e) of this section shall be included in the requirements document, including solicitation. However, if an agency determines that it is not essential to require conformance to the supplemental device dependent characteristics contained in the report, the requirements provision in paragraph (f) of this section shall be included in the document.

(e) The standard terminology when supplemental device characteristics are required is, as follows:

Applicability of FIPS PUB 63-1 (Interface: ADP Systems/Variable Block, Rotating Mass Storage Subsystems with Conformance to Supplemental Device Dependent Characteristics) (May 84 FIRMR)

Unless otherwise excluded as specified in FIPS PUB 63-1 by reference to FIPS PUBS 60-2 and 61-1 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 63-1, ADP systems and variable block, rotating mass storage subsystems that may result from this solicitation must conform to FIPS PUB 63-1. In addition, conformance to the specifications for Class(es) [Insert class(es)] as contained in the NBS report entitled "Additional Operational Specifications for Variable Block Rotating Mass Storage Devices" is required. The correct operation of all interfaces, whose conformance to FIPS PUB 63-1 and the above designated class(es) is required, must be verified before the acceptance of all applicable ADP equipment in accordance with FIRMR § 201-8.105-23(b). Arrangements for verification may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 63-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 63-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of requirement statement)

(f) The standard terminology when supplementary device characteristics are not required is, as follows:

Applicability of FIPS PUB 63-1 (Interface: ADP Systems/Variable Block, Rotating Mass Storage Subsystems without Supplementary Device Dependent Characteristics) MAY 84 FIRMR

Unless otherwise excluded as specified in FIPS PUB 63-1 by reference to FIPS PUBS 60-2 and 61-1 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 63-1, ADP systems and variable block, rotating mass storage subsystems that may result from this solicitation must conform to FIPS PUB 63-1. The correct operation of all interfaces, whose conformance to FIPS PUB 63-1 is required, must be verified before the acceptance of all applicable ADP equipment in accordance with FIRMR § 201-8.105-23(b). Arrangements for verification may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 63-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 63-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of requirement statement)

c. Section 201-8.105-34 is added as follows:

§ 201-8.105-34 FIPS PUB 97, Operational Specifications for Fixed Block, Rotating Mass Storage Subsystems.

(a) FIPS PUB 97 defines the peripheral device dependent operational interface specifications for connecting fixed

block, rotating mass storage subsystems, such as magnetic disk equipment, to ADP systems. It is to be used with FIPS PUB 60–2, I/O Channel Interface, and FIPS PUB 61–1, Channel Level Power Control Interface. FIPS PUBS 60–2 and 61–1, plus this standard, provide for full plug-to-plug interchangeability of fixed block, rotating mass storage equipment as a part of ADP systems. FIPS PUB 97 applies to the acquisition of fixed block magnetic disk equipment if FIPS PUBS 60–2 and 61–1 are required. If waivers apply to a solicitation, the requirements document shall so state.

(b) NBS must verify the correct operation of interfaces required to conform to FIPS PUB 97 before the applicable ADP equipment can be accepted. NBS establishes, maintains, and distributes to Federal agencies a list of equipment with verified interfaces; it is also available from NBS upon request. The list identifies each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) An alternative to FIPS PUB 97 is FIPS PUB 63–1, Operational Specifications for Variable Block, Rotating Mass Storage Subsystems. If either standard is used, the other is not required.

(d) The Standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 97 (Interface: ADP Systems/Fixed Block, Rotating Mass Storage Subsystems) (MAY 84 FIRMR)

Unless otherwise excluded as specified in FIPS PUB 97 by reference to FIPS PUBS 60–2 and 61–1 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 97, ADP systems and fixed block, rotating mass storage subsystems that may result from this solicitation must conform to FIPS PUB 97. The correct operation of all interfaces, whose conformance to FIPS 97 is required, must be verified before the acceptance of all applicable ADP equipment. Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards,Gaithersburg, MD 20899, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 97 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 97. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of requirement statement)

d. Section 201–8.106–6 is added, as follows:

§ 201–8.106–6 FIPS PUB 98, Message Format for Computer Based Message Systems.

(a) FIPS PUB 98 provides for the separation of information so that a computer based message system (CBMS) can locate and operate on that information. The intent of the standard is to aid information interchange among CBMSs by permitting users of different CBMSs to transmit messages to each other.

(b) The standard applies to the acquisition and use of CBMS and services in networked systems.

(c) The standard does not apply to single-processor, stand-alone systems that are not interconnected with any other CBMS or to systems established strictly for the purpose of supporting research in computer science or communications. However, conformity with FIPS PUB 98 is recommended if it is likely that the system will be connected to another central processing unit or to a CBMS interconnected with an existing network.

(d) Implementation dates; (1) All requirements documents for CBMS in-house development initiated on or after March 1, 1984 shall implement the standard.

(2) All solicitation documents released on or after March 1, 1985 for computer based message equipment or services shall implement the standard.

(e) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 98 (Computer Based Message Systems and Services) (MAY 84 FIRMR)

All computer based message systems and services in networked systems offered as a result of the requirements of which this is a part shall comply with FIPS PUB 98 unless the requirements document specifies elsewhere that the services are provided by or are systems whose sole purpose is to support research in computer science or communications.

(End of requirement statement)

e. Section 201–8.113–7 is added, as follows:

§ 201–8.113–7 FIPS PUB 100/FED–STD 1041, Interface between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communication Networks.

(a) FIPS PUB 100/FED–STD 1041 adopts a subset of the International Telegraph and Telephone Consultative Committee (CCITT) Recommendation X.25 for operating in the packet mode on public data networks. The technical specifications of this standard shall be employed in designing, developing, and acquiring Federal ADP equipment, telecommunication equipment, or services using public packet-switched data communication networks whenever an interface based on CCITT Recommendation X.25 is required.

(b) NBS has established a testing service to evaluate equipment and services for conformance to this joint standard. This service will assist Federal agencies who wish to follow the options specified in the standard and limit acquisition to equipment that has been verified for conformance to the joint standard. Further information may be obtained from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: X.25 Verification.

(c) The standard terminology to be used in requirements documents, including solicitations, is:

Applicability of FIPS PUB 100/FED–STD 1041 (Public Packet-Switched Data Communications Network Interface) (MAY 84 FIRMR)

All applicable ADP and telecommunications equipment or services using public packet switched data communication networks which require an interface based on CCITT Recommendation X.25 must comply with the requirements specified in FIPS PUB 100/FED–STD 1041.

(End of requirement statement)

6. *Agency actions.* Pending the issuance of a permanent amendment of the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

7. *Effect on other directives.* This regulation supersedes FIRMR Temp. Reg. 2.

8. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapter B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

9. *Information and assistance.* Inquiries should be directed to Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management,

Telephone (202) 566-0194 or FTS, 566-0194.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85-1938 Filed 1-29-85; 8:45 am]

BILLING CODE 6820-25-M

41 CFR Parts 201-2, 201-11, 201-23, 201-24, 201-38, and 201-40

[FIRMR Temp. Reg. 4]

Telecommunication Acquisitions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues procurement procedures applicable Government-wide to telecommunication services, systems, facilities, and equipment. Section and reference captions are revised from those in the original promulgation of Federal Procurement Regulations (FPR) Temp. Reg. 51 (44 FR 41431, July 17, 1979), Supplement 2 to FPR Temp. Reg. 51 (47 FR 41354, September 29, 1982), Supplement 3 to FIRMR designated Temp. Reg. 51 (49 FR 39159, October 4, 1984), and Supplement 4 to FIRMR designated Temp. Reg. 51 (49 FR 50401, December 28, 1984) to be consistent with the integrated text of the FIRMR established by FIRMR Amendment 1. The intended effect is to continue the temporary provisions, without change in authorities, policies, or procedures, until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former FPR and Federal Property Management Regulations (FPMR) codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 4 (Reissue of FPR Temp. Reg. 51 and Supplements 2, 3, and 4 Provisions)

December 21, 1984

To: Heads of Federal agencies

Subject: Telecommunication acquisitions

1. *Purpose.* This regulation prescribes procurement procedures applicable to Government-wide telecommunication services, systems, facilities, and equipment. This reissue as a FIRMR temporary regulation changes the section and reference captions in the regulatory provision changes made in Federal Procurement Regulations (FPR) Temporary Regulation 51 dated July 3, 1979 (44 FR 41431, July 17, 1979), Supplement 2 to FPR Temp. Reg. 51 dated August 27, 1982 (47 FR 41354, September 29, 1982), Supplement 3 to the FIRMR designated Temporary Reg. 51 dated July 12, 1984 (49 FR 39159, October 4, 1984) and Supplement 4 to the FIRMR designated Temp. Reg. 51 dated December 19, 1984 (49 FR 50401, December 28, 1984).

2. *Effective date.* The effective date of this Temp. Reg. 4 is concurrent with the effective date of Amendment 1 to the FIRMR (April 1, 1985), which contains integrated text of former FPR and Federal Property Management Regulations (FPMR) codified provisions.

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201-1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes a new integrated text for the FIRMR. The intent of this reissue of FPR Temp. Reg. 51 and Supplements 2, 3, and 4 thereto is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanations. This two-step process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201-2.001 is amended to add (alphabetically) definitions, as follows:

§ 201-2.001 Definitions.

* * * * *

"Comparative cost analysis for purposes of telecommunication acquisition" means a procedure for adjusting the system life cost to the present value of money.

* * * * *

"Functional telecommunication system specifications" means: (a) The delineation of the requirements that the system is intended to satisfy and (b) the assumptions and facts underlying the requirements. The actual specification depends on the type of system to be procured; e.g., voice system, data system, or data service.

* * * * *

"Lowest overall cost for purposes of telecommunication acquisition" means the least expenditure of funds over the systems or items life, price and other factors considered. Lowest overall costs shall include, but shall not be limited to, such elements as personnel, purchase price or rentals, maintenance, site preparation and installation, programing, and training.

* * * * *

b. Sections 201-11.003-1 and 201-11.003-2 are added, as follows:

§ 201-11.003-1 Competitive telecommunication acquisitions.

Federal agencies shall obtain competition to the extent that is available and to the maximum extent practicable in all telecommunication acquisitions. The procurement policies and procedures applicable to the agency shall be followed.

§ 201-11.003-2 Sole source telecommunication acquisitions.

When an agency determines, after assessing the availability of competition, that some or all of the needed equipment or services are available from only one source of supply, documentation supporting the sole source acquisition, in accordance with applicable procurement regulations, shall be prepared and retained in the agency's file. If the services and equipment acquired have systems life cost of more than $100,000, a copy of the agency's sole source documentation shall be provided to the General Services Administration (KMA), Washington, DC 20405. GSA will use

this information for acquisition planning purposes. (See also § 201–40.008.)

c. Section 201–23.501 is added, as follows:

§ 201–23.501 Use of multi-year contracting authority for small telecommunication systems.

(a) In order to provide for the economical and efficient acquisition of small telecommunication systems, executive agencies are authorized under 40 U.S.C. 481(a)(3) to enter into multi-year contracting arrangements subject to the following conditions.

(1) Each agency electing to exercise the delegation shall establish management and control procedures coordinated by the agency designated senior official for information resources management activities and agency senior procurement executive.

(2) The authority may be used for requirements only within the 50 States.

(3) The telephone systems must be at locations where requirements can be satisfied by systems smaller than those described in § 201–39.002–1 (generally, less than 25 lines or 50 telephones).

(4) The system life shall not exceed 5 years.

(5) The system life cost shall not exceed $25,000.

(6) The authority shall not be used where GSA consolidated local telephone service is available.

(b) The blanket delegation is to the agency head and may be redelegated. GSA reserves the right to review and agency's exercise of this delegated authority. The GSA Assistant Administrator for Information Resources Management may change the conditions regarding the exercise of the authority by a particular agency or component thereof, including withdrawal of the authority. (Any changes will be in writing, will cite this § 201–23.501, will state the effective date and scope of the change, and will be directed to the designated senior official of the applicable agency.)

d. Sections 201–24.304 and 201–24.305 are added, as follows:

§ 201–24.304 Use of functional specifications.

(a) Functional telecommunication system specifications shall be used where possible. Agency telecommunications shall not be limited to tariff descriptions. Where applicable, requirements shall be set forth in a manner that will afford both tariff and nontariff suppliers opportunities to compete.

(b) The fact that a tariffed carrier can provide the required service and/or equipment does not by itself constitute justification to order from the tariffed carrier.

(c) A major item in the competitive process is the solicitation package. Section 201–40.007 provides information concerning the solicitation.

§ 201–24.305 Comparative cost analysis.

When adjusting the system life cost to the present value of money, the present value is computed by using the discount rate prescribed by OMB Circular A–94 or a higher rate as determined by the procuring agency. The higher rate, if used, is to reflect the agency's desired rate of return to assure the optimal allocation of its limited funds.

e. Sections 201–38.014–1, 201–38.014–2 and 201–38.014–3 are added, as follows:

§ 201–38.014–1 Submission of requirements to GSA.

Agency telecommunication requirements shall be submitted to the General Services Administration (GSA) in accordance with procedures outlined in § 201–39.006 unless the agency requirement is exempt under those provisions. If the agency requirement is exempt under § 201–1.103 or if GSA determines that service, efficiency and the least overall cost to the Government is best achieved through direct agency action, the agency will be authorized to contract to satisfy the requirement and shall follow the procedures specified in §§ 201–11.003–1, 201–11.003–2, and 201–24.304. Costs and other factors that will be considered include all costs of service delivery, administrative and engineering support activities, and service requirements associated with items such as national security, emergency preparedness, connectivity, management and control. Service shall include the satisfaction of national security, emergency preparedness, connectivity, management and control in addition to basic service delivery.

§ 201–38.014–2 GSA actions.

(a) GSA will assess the efficiency, service, and cost of using the Federal Telecommunications System (FTS) and other common user services or systems. If GSA determines that it is in the best interest of the Government to use common user systems, GSA will make the necessary arrangements. GSA will document the file to show the basis for the determination, with primary emphasis on cost considerations. GSA also may elect to provide telecommunications on behalf of the agency where it determines that this action is economical and in the interest of the Government.

(b) If an agency submits a request to GSA to use an alternative to the FTS for some or all of its voice long distance needs, GSA will assess the efficiency, service, and cost of the proposal. GSA will consider the proposal's total costs to the Government, compared to the total costs to the Government in meeting the agency's needs using (1) the FTS, (2) the lowest cost commercial offerings on the public network, or (3) other alternatives, as applicable. GSA will make a determination for a preferred option within the time periods as specified in §§ 201–39.007–1 and 201–39.007–2, as applicable.

§ 201–38.014–3 Review of proposed determinations by the Office of Management and Budget.

(a) In the absence of mutual agreement between GSA and the agency concerned, proposed GSA determinations with respect to a specific agency long distance voice telecommunication requirement submission to GSA shall be subject to review and decision by OMB. When these matters are submitted to OMB for resolution, the submitting agency (GSA or the agency concerned) shall submit copies of the submission and all relevant data and information to the other party.

(b) The Administrator of General Services has authorized the Office of Management and Budget (OMB) to review and decide, based on economy, efficiency or service, the manner in which agency requirements referred to in paragraph (a) of this § 201–38.014–3 shall be satisfied.

f. Section 201–38.017 is added, as follows:

§ 201–38.017 GSA provided service through the FTS.

When GSA provides local telephone and/or intercity telephone services to Federal agencies, GSA will assume the responsibility of meeting all agency requirements. Agencies shall notify GSA of any changes desired at these locations through the use of Standard Form (SF) 145. The SF 145 is generally sent to the local GSA supervisor at the serving location. (See Part 201–41.)

g. Section 201–40.002–1 is added, as follows:

§ 201–40.002–1 GSA acquisition of agency systems.

The following provisions apply when GSA performs a system acquisition on behalf of an agency.

(a) *Agency responsibilities.* The requiring agency shall—

(1) Prepare the documentation using criteria discussed in § 201–40.007;

(2) Prepare or assist GSA in the preparation of the technical portion of the solicitation document;

(3) Provide technical and contracting personnel, as required, to be members of the procurement team;

(4) Prepare or assist GSA in the preparation of the selection plan and submit it to the contracting officer prior to the issuance of the solicitation documents;

(5) Assist GSA in the technical evaluation of proposals;

(6) Provide GSA with copies of all correspondence between the agency and offerors;

(7) Assist GSA in performing the economic evaluation of proposals;

(8) Assist in writing the determination and findings, or provide a sole source justification when necessary;

(9) Provide GSA with administrative information; e.g., financial data (paying office, fund citation, etc.), contract distribution list, and name of agency contracting officer;

(10) Participate in the negotiation;

(11) Assist GSA in debriefing offerors, if necessary;

(12) Place the delivery order, if applicable, and

(13) Administer the contract when it is transferred to the agency.

(b) *GSA responsibilities.* As necessary for the specific acquisition, GSA will—

(1) Form the procurement team, including technical, contracting, and economic analysis personnel. If the agency does not have qualified technical personnel, GSA will prepare the technical portion of the solicitation document;

(2) Prepare the solicitation document;

(3) Act as the point of contact between the Government and offerors, including the execution or approval of all correspondence between the Government and any offerors, receiving proposals from offerors, and providing copies of all offers to the agency;

(4) Perform the economic evaluation of proposals;

(5) Participate in the technical evaluation of proposals;

(6) Perform evaluations, including attendance at demonstrations, to determine the technical capability of the items offered;

(7) Conduct negotiations, as necessary, notify offerors when proposals are unacceptable, and prepare determinations and findings, as necessary;

(8) Ensure that the agency is informed of all procurement activities, including the reporting of results of negotiations and providing draft copies of the contract to the agency;

(9) Award and distribute the contract, including the transmission of all pertinent documents to the successor contracting officer appointed by the agency; and

(10) Debrief offerors, as necessary.

h. Sections 201–40.006, 201–40.007, 201–40.007–1, and 201–40.008 are added, as follows:

§ 201–40.006 Evaluation of acquisition alternatives.

The method of contracting for telecommunication requirements shall be determined after consideration of the relative merits of the alternative methods available; i.e., purchase, lease, or lease-with-option-to-purchase. A comparative cost analysis of the alternative methods shall be performed to determine which method provides the Government with the lowest overall cost over the total systems life (see also § 210–24.305). Particular attention in the cost analysis should be given to two-tier pricing mechanisms where recovery of facilities and equipment capital investment is treated in a different manner than the labor intensive elements of the price.

§ 201–40.007 Solicitations.

(a) Agencies shall prepare solicitations in accordance with applicable FAR provisions and this § 201–40.007. Upon request, GSA will provide assistance in developing solicitation packages and will help agencies in the solicitation process. Section 201–40.002–1 provides guidelines for agencies when GSA performs the contracting on behalf of an agency.

(b) The solicitation shall identify all evaluation factors that are to be considered. It shall include mandatory requirements and, where applicable, evaluated optional features. If evaluated optional features (see § 201–2.001 for definition) are included, relative weights (expressed in dollar values, points, or any other reasonable indicators that describe the relative importance) shall be assigned to these features.

(c) To assist agency personnel in reviewing proposals, the contracting office shall prepare a selection plan prior to issuing the solicitation.

§ 201–40.007–1 Use of GSA model solicitation for PBX systems.

GSA has developed a model solicitation package for PBX systems that is available to agencies upon request from General Services administration (KET), Washington, DC 20405.

§ 201–40.008 Use of GSA schedules.

GSA provides schedule contracts that are sources for some telecommunication equipment purchases, rental, maintenance, and spare parts. These contracts may provide the most economical and efficient method of procurement for satisfying the user's requirements. These schedule contracts contain varying terms and conditions (including some mandatory usage provisions), therefore, particular attention to their proper use shall be ascertained before acquiring equipment to satisfy the user's requirement.

6. *Other FIRMR designated FPR Temp. Reg. 51 changes.*

a. FPR Temp. Reg. 51 § 1–4.1300 is canceled. This provision has been replaced by § 201–40.000.

b. FPR Temp. Reg. 51 §§ 1–4.1301–2 and 1–4.1301–3 are canceled. These provisions are in § 201–2.001.

7. *Agency action.* Pending the issuance of a permanent amendment to the FIRMR, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR designated Temp. Reg. 51 and Supplements 2, 3, and 4 to Temp. Reg. 51.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* Inquiries should be directed to John F. Stewart, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1939 Filed 1–29–85; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Part 201–23

[FIRMR Temp. Reg. 5]

Agency Requests for Delegations of Procurement Authority for the Acquisition of ADP Equipment and Services

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues the alternate procedures that agencies may use to request delegations of procurement authority from GSA. Section and reference captions are revised from those used in the original promulgation of Federal Procurement Regulations (FPR) Temp. Reg. 64 (47 FR 8774, March 2, 1982) to be consistent with the integrated text of the FIRMR established by FIRMR Amendment 1. The intended effect is to continue the temporary provisions, without change in authorities, policies, or procedures, until consideration for codification into the FIRMR is accomplished.

DATE: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates intergrated text of former FPR and Federal Property Management Regulations (FPMR) codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following FIRMR temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 5 (Reissue of FPR Temp. Reg. 64 Provisions)

December 21, 1984.

To: Heads of Federal agencies

Subject: Agency requests for delegations of procurement authority for the acquisition of ADP equipment and services

1. *Purpose.* This temporary regulation extends the alternate procedure that agencies may use to request delegations of procurement authority from GSA. The alternate procedure was established on a trial basis by the Administrator of General Services in a memorandum for heads of departments and agencies dated November 14, 1980, and was described in GSA Bulletin FPMR F-126 (45 FR 84151, December 22, 1980). Provisions were changed by FPR Temp. Reg. 62 (46 FR 36143, July 14, 1981) and were further modified by FPR Temp. Reg. 64. This reissue as a FIRMR temporary regulation changes the section and reference captions in the regulatory provision changes made in Federal Procurement Regulations (FPR) Temporary Regulation 64 dated February 3, 1982, (47 FR 8774, March 2, 1982).

2. *Effective date.* The effective date of this FIRMR Temp. Reg. 5 is concurrent with the effective date of Amendment 1 to the FIRMR, (April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions. (The provisions were first effective December 1, 1981 under FPR Temp. Reg. 64.)

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201-1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes new integrated text for the FIRMR. The intent of this reissue of FPR Temp. Reg. 64 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanation. This "two-step" process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures. The background originally published remains applicable to this reissuance.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201-23.106 is added, as follows:

§ 201-23.106 Specific acquisition delegation of procurement authority.

(a) If an agency determines that the conditions of the contemplated procurement are not covered by the blanket delegation of procurement authority provisions of §§ 201-23.104 or 201-23.105, or if the conditions of the contemplated procurement change during the procurement process so that those provisions become inapplicable, two copies of the agency procurement request (APR) and other applicable documents shall be forwarded to the General Services Administration (KMA), Washington, DC 20405. The APR shall be signed by an official who has been authorized to initiate the acquisition action and shall identify the position title and organizational identity of the official who has been authorized to conduct the procurement. GSA will process only those submissions signed by authorized officials and identified by position title and organizational identity who appear on the submitted listing (see § 201-23.102(b)). Other submissions will be returned without action to the submitting office for resubmission by an authorized agency official. In addition, the APR shall contain the name and telephone number of an individual within the agency who shall act as the point of contact for GSA. The APR shall include, as applicable, information set forth in §§201-23.106-1 or 201-23.106-2.

(b) Any Federal agency may elect (or continue, if an election has been made to use the alternate APR submission requirements as set forth in § 201-23.106-2 when submitting ADP equipment or service procurement requests to GSA. This procedure is an alternative to the APR submission provisions of § 201-23.106-1.

(c) The agency senior designated official shall advise GSA (KMA), Washington, DC 20405, when the alternate APR submission procedure will be used by the agency. Agency notifications already submitted (under F-126 procedures) will be assumed to continue (as modified by this Temp. Reg. 5) unless GSA is notified to the contrary.

(d) GSA encourages agencies to establish early planning coordination with GSA's agency planning and authorization officials (KMA). Often potential delays and problem areas can be identified and remedied in advance of the formal APR submission.

(e) When required, the information submitted by an agency may be made available to Government oversight activities.

b. Section 201-23.106-2 is added, as follows:

§ 201-23.106-2 Alternate APR submission requirements.

(a) Agencies may elect to use the alternate APR submission procedure set forth in this § 201-23.106-2 when submitting ADP equipment or service requests to GSA. However, because the procedure offers agencies broader procurement autonomy than otherwise provided in § 201-23.106-1, it places greater emphasis on the responsibilities of agency officials to ensure that current regulatory provisions are followed before acquisitions take place. In

establishing internal procedures, agencies should strive to (i) designate executive level officials to initiate and accept accountability for acquisition actions under this regulation's alternate APR submission procedure and (ii) provide for an independent review to validate agency compliance with regulations.

(b) Alternate APR submission requirements for agency requests for ADP equipment or services are as follows.

(1) *Agency Information:* Provide agency name, address, and location where equipment will be installed or services will be performed. Provide names and telephone numbers of appropriate technical and contracting officials. Identity the position title and organizational identity of the official authorized to conduct the acquisition (see § 201–23.106(a)).

(2) *Project Title and Description:* (i) Provide the project title and a brief but specific description of the primary agency program(s) that the ADP equipment or service will support.

(ii) Provide a brief but specific description of the current major system components (including ADPE configuration) or services supporting the program(s).

(iii) Provide a brief but specific description of the major system components or services to be acquired during the systems life of the requirement. This should reflect resources required for system expansion (i.e., anticipated augmentations, upgrades, and other system modifications) during the systems life if such requirements will be included in the solicitation document as evaluated options. The delegation resulting from this submission will be limited to resources described herein.

(3) *Acquisition Strategy:* (i) Indicate whether the proposed procurement approach is competitive or noncompetitive (sole source, including use of specific make and model purchase descriptions); if competitive, whether compatibility limited requirements will be used on either a mandatory or nonmandatory basis; what acquisition plans will be solicited (lease, lease with option, lease to ownership, or purchase plan); and specify the type of contract expected to be used.

(ii) Identify by fiscal year quarter the following planned milestones: Release of solicitation document and contract award.

(iii) If the request involves a pilot or prototype, the strategy for the follow-on implementation phase must be describe.

(4) *Estimated Contract Life and Cost:* The estimated contract cost of the acquisition (not the overall system life cost) shall be indentified by type of request for the contract life and shall include all anticipated optional quantities, services, and periods. Detailed cost breakdowns may be included when necessary to describe clearly the estimated costs. The estimated contract cost (for all years) should correspond to the planned contract life. The delegation of authority resulting from this submission will be limited to quantities and years described herein.

Type of request	Estimated contract cost	Contract life
ADPE system or item		
ADPE system replacement/augmentation		
Proprietary software		
Equipment maintenance		
ADP services acquired under TSP/BA		
ADP services acquired under TSP/MAS		
ADP services acquired under TSP exception		
ADP services outside TSP scope		

(5) *Regulatory Compliance:* (i) Provide a statement which indicates that the agency has reviewed and complied (or will comply) with all applicable regulations, or (i) list those deviations to the regulations that apply to this request for which approval is sought and (ii) provide an explanation for each regulatory deviation request (see Subpart 201–1.4).

(ii) Provide the date of completion or most recent update of the following documentation, or indicate not applicable:

Documentation	Date
(A) Requirement analysis (see § 201–30.007)	
(B) Comparative cost analysis (see § 201–30.009)	
(C) Performance evaluation for the currently installed ADP system (see § 201–34.002)	
(D) Findings to support the use of compatibility limited requirements (see § 201–24.207)	
(E) Software conversion study (see § 201–30.012–1)	
(F) Justification to support a contemplated noncompetitive (sole source) procurement (including the use of specific make and model purchase description) (see § 201–23.106–1(d)(4))	
(G) Description of those planned actions necessary to foster competition for subsequent procurements (see § 201–30.012)	

(6) *Agency remarks*: Provide additional information deemed necessary concerning any of the above items or special conditions associated with this procurement; e.g., required building construction/modification by GSA.

(7) *Agency/GSA references*: Provide references to previous GSA authorizations (including previous GSA case numbers), meetings, telephone discussions, etc.

(8) *Agency authorized signature, position title, organizational identity, date.*

Note.—GSA will process only those agency submissions signed by an authorized official (see § 201–23.106(a)). The official's position title and organizational identity must be provided.

c. Section 201–23.107 is amended, as follows:

§ 201–23.107 GSA action on agency APR submissions.

* * * * *

(d) When an agency selects the alternate APR submission procedure under § 201–23.106–2(a), GSA will promptly review and take appropriate action on the APR. When necessary, GSA will conduct a more in-depth review before issuing a DPA under the alternate APR submission procedure. In some instances, this may require the submission of additional information. DPA's will clearly describe the conditions or limitations, if any, of the delegation. GSA will discontinue the practice of issuing DPA's subject to an immediate follow-on review.

(e) GSA will conduct periodic reviews of current and past agency acquisition actions as it deems appropriate. These periodic reviews will (i) verify agency compliance with regulations and DPA conditions or limitations, (ii) assess GSA procurement policies and directions given to agencies, and (iii) assess the agency's planning and control mechanisms regarding the use of the delegated authority to accomplish economical and efficient acquisition, use, and management of ADP resources. GSA will take appropriate actions when findings indicate failures to comply with regulations or conditions or limitations of individual DPA's or unauthorized deviations to regulations. Actions may include voiding a DPA before award and withdrawing an agency's authority to use the alternate APR submission procedure.

d. Sections 201–23.112, 201–23.112–1, and 201–23.112–2 are added, as follows:

§ 201–23.112 Federal Agency responsibility when procurement is delegated by GSA.

§ 201–23.112–1 Agency responsibility.

When acting under a GSA delegation of procurement authority under Subpart 201–23.1, the agency designated senior official is responsible for compliance with applicable procurement policies, regulations, and, in particular, Parts 201–24 and 201–32 and, if applicable, the

specific terms of the delegation (see § 201-23.107).

§ 201-23.112-2 GSA review of agency acquisition actions.

GSA reserves the right to review agency actions supporting any acquisition authorized under this Subpart 201-23.1. Documentation relative to agency actions made under the regulations issued under section 111 and other provisions of the Federal Property and Administrative Services Act of 1949, as amended, shall be made available for review upon request of GSA officials. (Documentation should be retained in agency files for such periods as required by applicable law or regulation.)

6. *Other FIRMR designated FPR Temp. Reg. 64 changes.*

a. The provisions in par. 5a of FPR Temp. Reg. 64 are canceled. These provisions are covered by §§ 201-23.106-2, 201-23.107, and 201-23.112.

b. The provisions in par. 5b of FPR Temp. Reg. 64 are canceled. These provisions are covered by § 201-23.106.

c. The provision in par. 5c of FPR Temp. Reg. 64 is canceled. This provision is covered by §§ 201-23.103 and 201-23.112.

d. The changes made by par. 5d of FPR Temp. Reg. 64 are canceled. These changes were revised and are covered in Temp. Reg. 6.

7. *Agency actions.* Pending the issuance of a permanent amendment to the FIRMR, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR designated FPR Temp. Reg. 64.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* For information and assistance in the agency APR submission, GSA authorization, and agency review procedures in this temporary regulation contact: General Services Administration (KMA), Washington, DC 20405, Telephone: (202) 566-1566 or FTS, 566-1566.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85-1940 Filed 1-29-85; 8:45 am]

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41 CFR Parts 201-2, 201-23, 201-24, and 201-32

[FIRMR Temp. Reg. 6]

Changes to Federal ADP Acquisition Regulations

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues changes to Federal ADP acquisition policies. The action is necessary to change section and reference captions to be consistent with the integrated text of the Federal Information Resources Management Regulation (FIRMR) from those used in the original promulgation of the Federal Procurement Regulations (FPR) Temporary Regulation 71 dated July 22, 1983 (48 FR 37031, August 16, 1983). The intended effect is to continue the temporary provisions until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985 Concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former FPR and Federal Property Management Regulations (FPMR) codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 6 (Reissue of FPR Temp. Reg. 71 Provisions)

December 21, 1984.

To: Heads of Federal agencies

Subject: Changes to Federal ADP Acquisition Regulations

1. *Purpose.* This temporary regulation:

a. (1) Raises the dollar thresholds for blanket delegations of procurement authority (DPA) for Federal agencies to acquire ADP resources;

(2) Grants authority to GSA's Assistant Administrator for Information Resources Management to issue letters establishing thresholds and conditions for the acquisition of ADP resources by individual Government agencies;

(3) Adds conditions under which the award decision for low cost computers can be based on the lowest offered purchase price;

(4) Removes the requirement to submit copies of solicitations and contracts to GSA; and

(5) Makes other clarifying changes regarding the use of ADP schedule contracts.

b. Reissues the regulatory provision changes made in Federal Procurement Regulations (FPR) Temporary Regulation 71 dated July 22, 1983 (48 FR 37031, August 16, 1983) as a FIRMR temporary regulation to change the section and reference captions.

2. *Effective date.* The effective date of this Temp. Reg. 6 is concurrent with the effective date of Amendment 1 to the FIRMR (April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions. (The provisions were first effective September 1, 1983.)

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201-1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes new intergrated text for the FIRMR. The intent of this reissue of FPR Temp. Reg. 71 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be intergrated into the FIRMR with appropriate explanation. This "two-step" process was adopted to

maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures. The background originally published remains applicable to this reissuance.

5. *Explanation of Changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201–2.001 is amended to add (alphabetically) a definition, as follows:

§ 201–2.001 Definitions.

* * * * *

"Lowest overall cost" means the least expenditure of funds over the system/item life, price and other factors considered. Lowest overall costs shall include purchase price, lease or rental prices, or service prices of the contract actions involved, other factors, and other identifiable and quantifiable costs that are directly related to the acquisition and use of the system/item; e.g., personnel, maintenance and operation, site preparation, energy consumption, installation, conversion, system start-up, contractor support, and the present value discount factor (see also § 201–24.208). However, the administrative costs of conducting an analysis to determine the lowest overall cost alternative shall be commensurate with the cost or price of the item being acquired and with the benefits expected to be derived from conducting the analysis. (Also see § 201–24.216 regarding ADPE priced at $25,000 or less).

* * * * *

b. Section 201–23.102 is added, as follows:

§ 201–23.102 Responsibility for conduct and accountability of acquisitions made under delegation of contracting authority from GSA.

(a) The provisions of Public Law 96–511 (the Paperwork Reduction Act of 1980) direct each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official is assigned responsbility for the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) (see 44 U.S.C. 3506(c)(4)).

(b) The designated senior official in each agency shall advise GSA in writing of the position title and organizational identity of those officials who have been authorized to submit agency procurement requests to GSA (see also §§ 201–23.106 and 201–23.112).

(c) The designated senior official shall keep the listings current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to GSA (KMA), Washington, DC 20405.

Note.—This change superseded a change made in FPR Temp. Reg. 64.

c. Section 201–23.103 is amended, as follows:

§ 201–23.103 Procurement and contracting authority.

(a)(1) To allow for the orderly implementation of a program for the economical and efficient acquisition of ADP resources, agencies are authorized to acquire by contracting for these items—

(i) In accordance with the blanket delegation provisions of § 201–23.104,

(ii) When a specific agency delegation has been provided by GSA in accordance with the provisions of § 201–23.105, or

(iii) When a specific acquisition delegation has been provided by GSA in accordance with the provisions of §§ 201–23.106 and 201–23.107.

(2) Requirements shall not be fragmented in order to circumvent established delegation of procurement authority thresholds.

(b)(1) Agencies shall comply with the applicable provisions of the FIRMR before initiating procurement action on an approved requirement.

(2) Agencies shall accomplish procurement actions in accordance with the provisions of Parts 201–24 and 201–32.

* * * * *

d. Sections 201–23.104, 201–23.104–1, 201–23.104–2, and 201–23.104–3 are added, as follows:

§ 201–23.104 Blanket regulatory delegations of procurement authority.

§ 201–23.104–1 Automatic data processing equipment (ADPE).

Except as indicated in § 201–23.201 regarding potential use of the ADP Fund, Part 201–31 regarding sharing, and Part 201–33 regarding the use of excess ADPE, agencies may procure ADPE without prior approval of GSA when either paragraphs (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order against a GSA schedule contract provided that the following three conditions are met:

(1) The order is within the maximum order limitation (MOL) of the applicable contract;

(2) The total purchase price (even though the item(s) are to be rented or leased) of the item(s) covered by the order does not exceed $300,000;

(3) The requirements set forth in § 201–32.206 on the use of GSA schedule contracts are met.

(c) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evaluated optional features) does not exceed:

(1) $2,500,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $1,000,000 for competitive procurements; or

(2) $250,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $100,000 for sole source or specific make and model procurements.

§ 201–23.104–2 Software.

Except for software available through the Federal Software Exchange Center as covered by § 201–31.014 and software provided with and not separately priced from the ADPE, agencies may procure commercially available software without prior approval of GSA when either (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract (see § 201–32.206).

(c) The procurement (regardless of method or time period) is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evaluated optional features) does not exceed:

(1) $1,000,000 for competitive procurements; or

(2) $100,000 for sole source procurements.

§ 201–23.104–3 Maintenance services.

Agencies may procure maintenance services without prior approval of GSA when either paragraph (a) or (b) of this § 201–23.103–3 applies.

(a) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract (see § 201–32.206).

(b) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the monthly charges do not exceed:

(1) An annual rate of $1,000,000 for competitive procurements; or

(2) An annual rate of $100,000 for sole source procurements.

e. Section 201–23.104–5 is amended, as follows:

§ 201–23.104–5 Commercial ADP services.

(a) Agencies may procure commercial ADP services without prior approval of GSA when the monthly charges (including evaluated optional features) do not exceed:

(1) An annual rate of $2,000,000 for a competitive procurement; or

(2) An annual rate of $200,000 for a sole source procurement.

(b) Agencies shall comply with the requirements regarding the sharing or use of existing Federal ADP resources and the use of GSA sources of supply before initiating procurement action under authority of this § 201–23.104–5.

* * * * *

f. Section 201–23.105 is added, as follows:

§ 201–23.105 Specific agency or agency component blanket delegation of procurement authority.

Specific changes in thresholds or conditions regarding the exercise of procurement authority by a particular agency or component thereof may be authorized by the GSA Assistant Administrator for Information Resources Management (K). The changes will be in writing, will cite this § 201–23.105, will state effectivity and scope of applicability, and will be directed to the designated senior official of the applicable agency.

g. Section 201–24.216 is added to allow award based on lowest offered purchase price for ADPE priced at $25,000 or less, as follows:

§ 201–24.216 Award criteria for low cost ADP equipment acquisitions.

Agencies may acquire ADPE on the basis of lowest offered purchase price when all of the following conditions are met:

(a) The purchase price of each system or item of equipment (including associated software) being acquired does not exceed $25,000;

(b) The total purchase price of all of the equipment and software being acquired under the procurement is $300,000 or less;

(c) The requirements are not fragmented to circumvent the thresholds in paragraph (a) and (b) of this § 201–24.216;

(d) The purchase method is likely to be the lowest overall cost acquisition alternative (see §§ 201–24.208 and 201–30.008); and

(e) The agency determines, based on the requirements analysis, determination of system/item life, and comparative cost analysis, that award based on lowest offered purchase price is consistent with the lowest overall cost policy objective. (See §§ 201–30.007, 201–30.008, and 201–30.009.)

h. Section 201–32.206 is amended to add the following changes: (1) Paragraph (a)(1) to indicate that this § 201–32.206 is to be used in context with the regulations; (2) paragraph (a)(2) to limit the use of "only new" and "all or none" requirements unless justified; (3) paragraph (a)(3) to indicate that administrative costs in relation to the value of the requirement should be considered when determining the number of schedule offerings to be considered; (4) subparagraph (a)(3)(ii) to indicate that "third party" suppliers should be considered when determining whether a requirement should be satisfied by a schedule order or by issuing a solicitation document; (5) paragraph (a)(4) to place the requirement to synopsize schedule orders in the Commerce Business Daily (CBD) in the opening paragraph; (6) paragraphs (b), (c), and (d) to remove the references to the CBD synopsis, which is now more fully explained in paragraphs (a) and (f); (7) paragraph (f)(1) to extend the CBD synopsis requirement to schedule orders for software and maintenance and to change the CBD synopsis thresholds to $50,000 purchase price instead of $50,000 per schedule order; (8) paragraph (f)(2) to require that the CBD synopsis shall reflect system life, net purchase price if converting from lease, any restrictive requirements, any requirements unique to software or maintenance, and that the notice is not to be considered a formal solicitation document; and (9) paragraph (g) to clarify in (g)(2) that CBD responses are encouraged from both schedule vendors and nonschedule vendors, and to add guidance in (g)(2)(ii) regarding the analysis of CBD responses from schedule vendors offering schedule prices, and in (g)(2)(iii)(B) to clarify that a competitive procurement resulting from responses to a CBD synopsis must be publicized. The change made by par. 5a(9) of FPR Temp. Reg. 71 to add a par. (a)(5) regarding FSC 7435 "A" is canceled. The requirement for this change expired on September 30, 1984.

Note.—Paragraph (h) was not changed by FPR Temp. Reg. 71 and is not included here.

§ 201–32.206 Use of GSA schedule contracts.

(a) *General.* (1) In addition to the requirements of Parts 201–24 and 201–32, orders placed against GSA nonmandatory schedule contracts under § 201–23.104 are subject to the provisions of this § 201–32.206. When a schedule contract is used pursuant to a § 201–23.104 blanket delegation of procurement authority, a specific delegation of procurement authority from GSA is not required even though the order is for a noncompetitive (sole source) requirement as defined in § 201–2.001.

(2) The existence of nonmandatory ADP schedule contracts shall not preclude or waive the requirement for maximum practicable competition in obtaining ADP or related equipment, software, or maintenance services. In addition, the availability of those items under an ADP schedule contract shall not preclude or otherwise detract from procuring the items, including peripheral equipment or items for augmenting an existing system, from a number of different sources if this action will be in the best interest of the Government. Accordingly, an "all or none" requirement or a requirement for "only new" equipment shall not be used unless specifically justified.

(3) Suitable equipment must be considered whether or not this equipment is on an ADP schedule contract. Accordingly, when an agency is procuring under the blanket delegation of procurement authority provisions of § 201–23.104, maximum practicable competition shall be sought. When using ADP schedules, the offerings of a sufficient number of schedule contractors that might satisfy the agency's requirements shall be considered. (See also FAR 15.105 for policy intent.) Alternatively, the agency may choose to prepare a solicitation package in an effort to secure appropriate products and related services at lower overall costs to the Government. Even though the solicitation process consumes time and resources, it may be in the best interest of the Government when:

(i) The expected cost reduction will exceed the added costs of acquisition; or

(ii) There is a reasonable expectation that better offers will be received from suppliers other than the schedule contractor (e.g., the "third party" suppliers) for suitable items; or

(iii) The agency requirements cannot be satisfied reasonably by any ADP schedule contractor; e.g., the agency's requirement calls for a customized package of equipment, training services,

or other features not offered commercially.

(4) Agencies shall comply with the synopsis requirements of paragraphs (f) and (g) of this section before placing orders, as outlined in paragraphs (b), (c), (d), and (e) of this section, against GSA nonmandatory schedule contracts.

(b) *Initial acquisition of ADPE.* Orders for the initial acquisition of ADPE, whether for purchase or rental, may be placed against the ADP schedule contracts provided that all of the following conditions are met.

(1) The order does not exceed the contract's maximum order limitation (MOL).

(2) When the purchase price of the items covered (even though the items are rented or leased) exceeds ($300,000, a specific delegation of procurement authority is obtained. (See §§ 201-23.104-1(b) and 201-23.106.)

(c) *Continued rental or lease of installed ADPE and software.* ADP schedule contracts may be used for the continued lease or rental of installed equipment and software under the provisions of the schedule contract. However, when orders are for or include the continued lease of an installed central processing unit (CPU), a specific delegation of procurement authority under § 201-23.104 shall be obtained before issuing the renewal order if the schedule purchase price exceeds $300,000 and the results of the Commerce Business Daily (CBD) synopsis indicates that the equipment is available from a source other than the schedule contract.

(d) *Conversion from lease to purchase of installed ADPE.* A specific delegation of procurement authority shall be obtained before issuing an order to purchase previously leased ADPE with a net purchase order price of more than $300,000 when identical (specific make and model) or suitable substitute equipment is available from a supplier other than the schedule contractor.

(e) *Acquisition of software and maintenance services.* Orders may be placed against ADP schedule contracts for software and maintenance services provided that the value of the order does not exceed the MOL of the applicable schedule contract.

(f) *Synopsis requirements.* (1) The intent to place an order for ADPE, software, or maintenance services against a nonmandatory ADP schedule contract shall be synopsized in the CBD at least 15 calendar days before placing the order, when the purchase price of the equipment (whether purchased or leased) exceeds $50,000, or when the software or maintenance charges exceed an annual rate of $50,000.

(Note.—This synopsis requirement is applicable to the conversion from lease to purchase of ADPE, but it is not applicable to the continued lease of installed ADPE that does not include a CPU.) This synopsis requirement applies nonwithstanding the exemption in FAR 5.202(e).

(2) These synopses should include sufficient information to permit the agency analyses required by § 201-32.206(g). They shall be prepared and forwarded in accordance with FAR Subpart 5.2. As a minimum, and as applicable, these synopses shall state:

(i) Quantities, dates required, any restrictive (e.g., bundled) requirements that have been justified, and a point of contact, including phone number, for further information;

(ii) Specific make and model, system/life item, and support requirements (e.g., hours of maintenance coverage, response times) of any equipment to be ordered or maintained;

(iii) The name, functional description, and operating environment of any software packages to be ordered;

(iv) A request for pricing data; and

(v) A statement that no contract award will be made on the basis of any response to the notice, because the synopsis of intent to place an order against a schedule contract shall not be considered a formal solicitation document.

(3) Publication of contract award information in the CBD is not required when an order is placed against an ADP schedule contract, whether or not it follows a competitive solicitation, since the schedule contracts are publicized in accordance with FAR Subpart 5.3.

(g) *Actions after the CBD synopsis.* The schedule order synopsis technique provides agencies with both the GSA negotiated schedule prices (derived from discounting prices in the competitive commercial marketplace) and such additional product and cost information as might be submitted by potential nonschedule suppliers in response to the CBD notification. After consideration of the affirmative responses received in response to the CBD notice, the contracting officer must decide whether ordering from an ADP nonmandatory schedule, or conducting a competitive acquisition, is most advantageous to the Government. Accordingly, the contracting officer shall take one of the following actions:

(1) When no responses are received, the procurement file shall be documented with the results of the CBD synopsis and the order placed in accordance with the terms and conditions of the applicable schedule contract.

(2) When a response to the CBD notice is received from either a nonschedule vendor or a schedule vendor (expressing an interest either on or off schedule) for an item(s) that meets the user's requirement, the contracting officer shall take one of the following actions:

(i) Document the procurement file with an analysis that indicates that the respondent's item(s) would not meet the requirement, or that the synopsized schedule item(s) provides the lowest overall cost alternative, and place the order against the synopsized schedule contract; or

(ii) Document the procurement file with an analysis that indicates that a responding vendor's schedule offering will meet the requirement at the lowest overall cost and place an order against that ADP schedule contract; or

(iii) Document the procurement file with an analysis that indicates that a competitive acquisition would be more advantageous to the Government. When this is the case, the contracting officer normally should issue a formal solicitation. In this event:

(A) The solicitation should contain terms and conditions substantially the same as those contained in the schedule contract in which the order was to be placed. The addressees of the solicitation shall include the schedule vendor for the purpose of ascertaining the vendor's interest in furnishing the item(s) off the schedule. This procedure will permit the schedule vendor to discount the schedule item(s) price since a discount under a separate proposal would not be a "price reduction" as provided in the schedule contracts.

(B) The agency shall publicize the procurement in accordance with the provisions of FAR Subpart 5.2.

(C) The contracting officer shall evaluate the offers received. It should be noted that some vendors may not agree to the solicitation terms and conditions that schedule vendors have accepted and that have been incorporated in their schedule contracts. The contracting officer shall act in a manner most advantageous to the Government by either awarding a contract based on the offers received in response to the solicitation or placing an order with a vendor under a schedule contract. The procurement file shall be documented to justify the action taken.

* * * * *

6. *Other FIRMR designated FPR Temp. Reg. 71 changes.*

a. The change made by par. 5a(1) of FPR Temp. Reg. 71 is canceled. The requirement for this change expired on September 30, 1984.

b. The change made by par. 5a(2) of FPR Temp. Reg. 71 is canceled. This change was also made by FPMR Temp. Reg. F–500/B–6 and appears in Temp. Reg. 8.

c. The change made by par. 5a(5) of FPR Temp. Reg. 71 to delete paragraph (d) of FPR § 1–4.1104 is canceled. This deleted paragraph is not included in the FIRMR.

7. *Agency action.* Pending the issuance of a permanent amendment to the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This temporary regulation supersedes FIRMR designated FPR Temporary Regulation 71.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* Inquiries should be directed to Mr. David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone 202, 566–0194 or FTS, 566–0194.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1941 Filed 1–29–85; 8:45 am]

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41 CFR Parts 201–2, 201–16, 201–20, 201–30, 201–31, and Appendix E

[FIRMR Temp. Reg. 7]

ADP Resources Utilization and Reporting

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues modified ADP sharing policies and procedures applicable to Federal agencies. The action is necessary to change section and reference captions to be consistent with the integrated text of the Federal Information Resources Management Regulation (FIRMR) from those used in the original promulgation of the Federal Property Management Regulations (FPMR) Temporary Regulation F–499 dated May 14, 1982 (47 FR 33960, August 5, 1982). The intended effect is to continue the temporary provisions until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985, Concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former Federal Procurement Regulations (FPR) and FPMR and codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 7 (Reissue of FPMR Temp. Reg. F–499 Provisions)

December 21, 1984.

To: Heads of Federal agencies

Subject: ADP resources utilization and reporting

1. *Purpose.* This regulation modifies the ADP sharing policies and procedures applicable to Federal agencies. The GSA role is changed from acting as a broker between agencies in the sharing process. As revised, GSA will establish policies and procedures, publish listings of Government activities with sharing opportunities to facilitate direct agency arrangements, and consolidate reporting on cost savings from sharing Government-wide. In addition, the policies in Office of Management and Budget Circular A–121 are implemented. The intended effect is to reduce paperwork and increase economy and efficiency in sharing procedures. This reissue as a FIRMR temporary regulation changes the section and reference captions in the regulatory provision changes made in Federal Property Management Regulation (FPMR) Temporary Regulation F–499 dated May 14, 1982 (47 FR 33960, August 5, 1982).

2. *Effective date.* The effective date of this FIRMR Temp. Reg. 7 is concurrent with the effective date of Amendment 1 to the FIRMR, (April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions. (The provisions were first effective August 1, 1982 under FPMR Temp. Reg. F–499.)

3. *Expiration date.* This regulation expires September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201–1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes new integrated text for the FIRMR. The intent of this reissue of FPMR Temp. Reg. F–499 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanation. This "two-step" process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures. The background originally published remains applicable to this reissuance.

5. *Explanation of changes.*

a. Section 201–2.001 is amended to add (alphabetically) definitions, as follows:

§ 201–2.001 Definitions.

* * * * *

"ADP resource" means (1) automatic data processing equipment (ADPE), software, firmware, or related supplies as defined in § 201–2.001, (2) ADP management, technical, or operations personnel, or (3) a contracted commercial ADP service or ADP support service.

"ADP resource system" means a combination of ADP resource elements organized to perform specific or types of specific ADP requirements. ADP equipment systems and systems using commercial ADP services are included.

* * * * *

"ADP sharing" means the provision of available ADP resources to users by an organization with no primary responsibility for supporting those users.

* * * * *

"ADP unit" means any organizational element of the Federal Government which:

(1) Uses or plans to use ADPE;

(2) Uses or plans to use commercial ADP services;

(3) Has organizational components which perform ADP management, development, programming, selection, or implementing functions; or

(4) Has Government contractors, including educational institutions and other not-for-profit contractors or organizations, who operate ADP equipment in the performance of work under cost reimbursement-type contracts or subcontracts when: (i) equipment is leased and the total cost of leasing is to be reimbursed under one or more cost reimbursement-type contracts; (ii) equipment is purchased by the contractor for the account of the Government or title will pass to the Government; (iii) equipment is furnished to the contractor by the Government; or (iv) equipment is installed in Government-owned, contractor-operated facilities.

* * * * *

"Data processing facility" means the personnel, hardware, software, and physical facilities of an organizational entity whose primary function is the operation of one or more computers. A data processing facility includes:

(1) The personnel who operate computers; develop and maintain software; provide user liaison and training; schedule jobs and computer time; prepare and control imput data; control, reproduce, and distribute output data; maintain tape and disk libraries; provide security; maintenance, and custodial services; and manage or provide administrative support to other personnel engaged in these activities.

(2) The owned, rented, or leased computer and telecommunications hardware including central processing units; associated peripheral equipment such as control or switching units, disk drives, tape drives, drum storage, printers, card readers, and consoles; data entry equipment; data reproduction, decollation, booking, and binding equipment; and telecommunications equipment used for the transfer of data between remote sites and the facilities including telecommunications control units, terminals, modems and dedicated phone lines.

(3) The general purpose software including operating system software, utilities, sort, merge, language processors, access methods, data base processors, and other similar multiuser software.

(4) The physical facilities including computer rooms; tape and disk libraries, stockrooms and warehouse space; office space; physical fixtures such as desks, chairs, storage, and file cabinets; general office telephones; and general office duplicating equipment, calculators, typewriters, and similar office machines.

* * * * *

"Data processing facility subject to OMB Circular A–121" means all data processing facilities operated by, or on behalf of, an executive agency that provide service to more than one user, operate one or more general management computers, and exceed $100,000 per year for the full cost of operation.

* * * * *

"Full cost, for purposes of OMB Circular A–121" means all significant expenses incurred in the operation of a data processing facility. The following cost elements are included:

(1) Personnel—including salaries, overtime, and fringe benefits (both funded and unfunded) of civilian and military personnel; training; and travel.

(2) Equipment—including depreciation for owned capitalized equipment, rental cost, leased costs, and direct expenses for non-capitalized equipment.

(3) Software—including depreciation for capitalized costs of developing, converting, or acquiring software; rental costs for software; and direct expenses for non-capitalized acquisition of software.

(4) Supplies—including office supplies, data processing materials, and miscellaneous expenses.

(5) Contracted services—including technical and consulting services, equipment maintenance, data entry support, operations support, maintenance of multipurpose and operating system software and telecommunications network services.

(6) Space occupancy—including rental and depreciation of buildings, general office furniture, and equipment, building maintenance; heating, air conditioning, and other utilities expenses; telephone charges; and building security and custodial services.

(7) Intra-agency services and overhead—including the costs of normal agency support services, either billed or allocated.

(8) Interagency services—including the costs of services provided by other agencies and departments, whether reimbursed or estimated.

* * * * *

"General management computer for purposes of OMB Circular A–121" means a digital computer which is used for any purpose other than as a part of a process control, combat weapon, space, or mobile system.

"User" means an organizational or programmatic entity which receives service from a data processing facility. A user may be either internal or external to the agency or agency organization responsible for the facility.

* * * * *

b. Section 201–16.002 is amended to add a new paragraph (c) to place emphasis on avoiding the use of costly, outmoded computers, as follows:

§ 201–16.002 Planning requirements.

* * * * *

(c) The plan should be used by agencies to manage their sharing and reutilization programs. Planning short- and long-range procurement strategies is essential to avoid the continued use of costly, outmoded computers or other obstacles to more effective, efficient, and economical ADP.

c. Section 201–20.006 is added, as follows:

§ 201–20.006 Sharing and reutilization.

Sharing installed ADPE and its operating system software shall be considered as a means of meeting the ADP requirements of the user (see Part 201–31 and OMB Circular A–121). Excess ADPE shall also be considered a source of supply (see Part 201–33). Sharing Government-owned common-use application software should be considered prior to development of new programs (see Part 201–31). Additional ADP capacity shall be acquired only if an agency has made reasonable efforts to determine that existing resources will not economically and efficiently meet the requirements. However, continued use of costly outmoded computers should be avoided.

d. Section 201–31.002 is added as follows:

§ 201–31.002 ADP sharing considerations.

(a) *General.* The growth of ADP in the Government has increased sharing opportunities. Sharing these resources may be the most economical and efficient means to satisfy an ADP requirement, but is seldom a substitute for fundamental ADP capabilities needed by an agency. However, several factors tend to deminish the realization of the economic and efficiency potentials in sharing. These factors include increasing complexities of setting up on another data processing facility (even when the facility has the same versions of the same software), better and cheaper micro and mini computer alternatives, availability of GSA's Teleprocessing Service Program

for commercial ADP services, entry of many new time sharing vendors into the Government marketplace, and requirements for security and Privacy Act safeguards. Some data processing facilities, e.g., Federal Data Processing Centers, have a primary mission responsibility of providing ADP services and ADP support services. These facilities are generally characterized by good documentation, a wide range of software, a user assistance staff, and full cost accounting. These services may not be readily available to prospective users if the facility is not routinely sharing its resources.

(b) *Requirement considerations.* Sharing may present a viable alternative for agencies who (1) need greater capacity, (2) want to evaluate expensive software or equipment configurations before acquisition (3) have insufficient ADP requirements to justify a separate facility. Applications such as financial management, statistics, engineering, and mathematics are often good sharing candidates. Applications such as command and control systems, intelligence and law enforcement systems, and systems with special security requirements are often not good sharing candidates.

(c) *Facility considerations.* The workload orientation of a facility may severely limit its potential for sharing. This can be true for facilities (1) which have acute privacy or security implications (e.g., certain IRS, VA, Defense, or SSA facilities), (2) which have special opportunities for fraud (e.g., funds transfer and treasury check disbursing systems), (3) which are dedicated to a single function (e.g., military logistics or weather), and (4) which have been reviewed and determined to be obsolescent.

(d) *Sharing as resource justification.* As provided in OMB Circular A–121, sharing arrangements can be used by the agency providing services in justifications to OMB for resource requests and allocations only in such cases where exceptional circumstances preclude the user agency from using alternative sources. However, the unfunded portion of planned reimbursements arising from equipment and software depreciation may be used for the replacement and augmentation of ADP capital assets provided such usage is in accordance with A–121 provisions.

e. Section 201–31.003 is added as follows:

§ 201–31.003 Government-wide ADP sharing.

(a) Federal agencies shall be responsible for determining whether their ADP requirements can be efficiently and economically satisfied by using existing resources. OMB Circular A–121, subject: Cost Accounting Cost Recovery and Interagency Sharing, dated September 16, 1980, specifically paragraph 4f, applies.

(b) Federal agencies shall be responsible for determining to what extent their ADP resource systems will be made available to users (see also OMB Circular A–121, paragraph 4a).

(c) Agencies seeking sharing facilities will identify and deal directly with those facilities. Since sharing is a viable alternative for only a portion of ADP requirements (see § 201–31.002), agency procedures for making these determinations shall be oriented toward potential sources of sharing support rather than an exhaustive review of all Federal facilities.

(d) Management officials of agencies who have an interest in sharing their facilities should participate in informal interagency sharing groups. These groups should exchange information concerning the minimum capabilities of their facilities in order to identify their salient characteristics to the potential user, e.g., documentation, user assistance, capabilities, prices, duration, bumping, or termination terms.

(e) GSA will facilitate use of existing resources by issuing bulletins from time to time containing information concerning sharing opportunities. GSA will assist in the search for sharing opportunities as needed in time of national emergency or public exigency. Upon request of the parties concerned, GSA will arbitrate disputes concerning prices and services between agencies. Requests may be directed to General Services Administration (KMA), Washington, DC 20405.

(f) GSA will foster the establishment of Federal Data Processing Centers where opportunities and needs for economical and efficient service exist (see § 201–31.010–1).

f. Section 201–31.004 is added, as follows:

§ 201–31.004 ADP sharing procedures.

(a) A Federal agency shall not initiate the process of selecting and acquiring ADP resources unless it first makes reasonable efforts to determine that the required ADP capability cannot be met economically and efficiently by using existing ADP resources on a shared, reimbursable basis.

(b) When it is determined that existing resources are capable of meeting an agency's requirement, the agency shall consider this alternative as part of the analysis (see § 201–30.009).

(c) Federal agencies shall first attempt to satisfy their ADP requirements by selectively screening resources of other ADP units in their agency and in other agencies. If the result of screening "targets of opportunity" is unsuccessful, the basis for this determination shall be documented.

(d) Federal agencies are required to include a statement relative to this screening procedure when submitting agency procurement requests (see § 201–23.106).

(e) Sharing of excess data processing capacity by Executive agencies with users from other agencies shall be consistent with the provisions of OMB Circular A–121.

g. Section 210–31.005 is added, as follows:

§ 201–31.005 ADP sharing exceptions and exemptions.

(a) Agencies should try to share their ADP resources. However, agencies need not share a system if it does not lend itself to sharing because of the uniqueness of a particular program or mission, or because of the design of the system (see §201–31.002).

(b) In addition, the following ADP resources are exempt from the requirements for sharing:

(1) ADPE built or modified to special Government design specifications which has no general purpose applicability and is integral to a weapons or space system;

(2) Analog computers; and

(3) ADPE maintenance services.

h. Section 201–31.006 is added, as follows:

§ 201–31.006 Reporting of sharing and services obtained from a commercial source.

(a) *Sharing.* (1) ADP sharing (as defined in § 201–2.001) accomplished by data processing facilities (as defined in § 201–2.001) shall be reported by each facility if the total dollar amount charged by a facility to users (as defined in § 201–2.001) other than those which the facility has primary responsibility for supporting exceeds $100,000 during a fiscal year.

(2) Reports of sharing shall be submitted on GSA Form 2068A to the General Services Administration (KHE), Washington, DC 20405, not later than 60 days (November 30) after the close of the fiscal year. Federal agencies may elect to submit reports on a centralized basis at any organization level desired. Each agency shall advise GSA (KHE) of the procedures it will follow.

(b) *Services obtained from a commercial source.* (1) ADP services and ADP support services (as defined in § 201–2.001) shall be reported by each

user (as defined in § 201–2.001) on a call basis specified by GSA (KM), Washington, DC 20405.

(2) Reports of ADP services and ADP support services, to the extent specified in each call, shall be submitted on GSA Form 2068A or other format as requested, to the GSA address specified. At least 60 days will be provided for agencies to respond. Submissions will not be required more often than once per year. Agencies may provide the reports on a centralized basis at any organizational level desired.

(c) *Reports Control.* Interagency reports control number 1106–GSA–AN (currently assigned expiration date: March 31, 1985) has been assigned to this reporting requirement.

i. Section 201–31.010–1 is added, as follows:

§ 201–31.010–1 General.

An FDPC may be established if feasibility studies indicate that one is needed. GSA-operated FDPCs are financed by the ADP Fund. FDPCs operated by other agencies under a delegation of authority may be, but are not necessarily, financed by the ADP Fund. In either instance, the FDPC and the requesting agency will arrange mutually satisfactory means, consistent with OMB Circular A–121, for reimbursing the FDPC for services rendered.

j. Section 201–31.010–2 is added, as follows:

§ 201–31.010–2 Services available from FDPCs.

FDPCs provide many ADP services and ADP support services. GSA, through informational bulletins, will announce the availability of specific services and associated costs.

k. Section 201–31.010–3 is amended by adding paragraph (a), as follows:

§ 201–31.010–3 Point of contact.

(a) Agencies that require any FDPC services that have not been provided through the procedures set forth in § 201–31.004 should contact General Services Administration (KMA), Washington, DC 20405 or the appropriate FDPC.

* * * * *

1. Appendix E—GSA Form 2068A (pending revision of the form) is changed to remove the word "Quarterly" from the title and text, to revise the interagency reports control number to 1106–GSA–AN, and to revise the note appearing on the back of the illustration of the form, as follows:

Appendix E—GSA Form 2068A Report of ADP Service Provided to Another Agency or Obtained From a Commercial Source.

* * * * *

Note.—Pending revision of GSA Form 2068A, reference to the word "Quarterly" and to "GSA Form 2068" shall be considered removed and reference to "FPMR 101–32" shall be considered to read "FIRMR Part 201–31".

Note.—Appendix E does not appear in the Code of Federal Regulations.

6. *Other FIRMR designated FPMR Temp. Reg. F–499 changes.*

a. The change made by par. 5a(1) of FPMR Temp. Reg. F–499 is canceled. This change is codified at § 201–1.102–2(d).

b. The changes made by par. 5a (2), (3), and (4) of FPMR Temp. Reg. F–499 are canceled. These changes are codified at § 201–2.001.

c. The change made by par. 5a(7) of FPMR Temp. Reg. F–499 is canceled. It is included in the change made by par. 5a(8) of FPMR Temp. Reg. F–500. The provision appears at § 201–30.009 in Temp. Reg. 8 (reissue of F–500).

d. The changes made by par. 5b of FPMR Temp. Reg. F–499 are canceled. These changes are codified at § 201–32.302.

e. The change made by par. 5c(5) of FPMR Temp. Reg. F–499 is canceled. This change is covered by Part 201–32.

f. The change made by par. 5d(1) of FPMR Temp. Reg. F–499 is canceled. This deleted section is not included in the FIRMR.

g. The change made by par. 5e(2) of FPMR Temp. Reg. F–499 is canceled. These deleted sections are not included in the FIRMR.

h. The change made by par. 5f of FPMR Temp. Reg. F–499 is canceled. This deleted subpart is not included in the FIRMR.

i. The change made by par. 5g(1) of FPMR Temp. Reg. F–499 is canceled. This deleted section is not included in the FIRMR.

7. *Agency action.* Pending the issuance of a permanent amendment to the FIRMR, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR designated FPMR Temp. Reg. F–499.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1942 Filed 1–29–85; 8:45 am]

BILLING CODE 6820–25

41 CFR Parts 201–2, 201–16, 201–24, 201–26, and 201–30

[FIRMR Temp. Reg. 8]

Management of Information Processing Resources

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues merged management regulations governing ADP and word processing into provisions governing "information processing resources". It also covers the renamed ADPE Data System (ADPE/DS) and changes agency reporting requirements for general purpose ADP equipment systems. The action is necessary to change section and reference captions to be consistent with the intergrated text of the Federal Information Resources Management Regulation (FIRMR) from those used in the original promulgation of the Federal Property Management Regulations (FIRMR) Temporary Regulation F–500 and identical issuance FPMR Temp. Reg. B–6 dated August 30, 1983 (48 FR 49236, October 25, 1983). The intended effect is to continue the temporary provisions until consideration for codification into the FIRMR is accomplished.

DATE: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former Federal Procurement Regulations (FPR) and FPMR codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will

have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: (Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR Chapter 201, the following temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 8

(Reissue of FPMR Temp. Reg. F–500/B–6 Provisions)

December 21, 1984

To: Heads of Federal agencies

Subject: Management of information processing resources

1. *Purpose.* This regulation merges the management regulations governing ADP and word processing into provisions governing "information processing resources." It changes the definition of automatic data processing equipment (ADPE) to reflect equipment classification changes discussed in FPMR Bulletin A–79 and defines the term, "information processing resource." It also renames the ADP Management Information System (ADP/MIS) as the ADPE Data System (ADPE/DS) and changes the reporting requirements so that only general purpose ADP equipment systems costing more than $50,000 need be reported. FPMR Temp. Reg. F–500/B–6 canceled FPMR Subpart 101–11.9 and Bulletin A–79. This reissue as an FIRMR Temporary Regulation changes the section and reference captions in the regulatory provision changes made in Federal Property Management Regulations (FPMR) Temporary Regulation F–500/B–6 dated August 30, 1983 (48 FR 49239, October 25, 1983).

2. *Effective date.* The effective date of this FIRMR Temp. Reg. 8 is concurrent with the effective date of Amendment 1 to the FIRMR (April 1, 1985), which contains integrated text of former FPR and FPMR codified provisions. (The provisions were first effective October 1, 1983 under FPMR Temp. Reg. F–500/B–6.)

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201–1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes new integrated text for the FIRMR. The intent of this reissue of FPMR Temp. Reg. F–500/B–6 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanation. This "two-step" process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures. The background originally published remains applicable to this reissuance.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

1. Section 201–2.001 is amended to add (alphabetically) definitions, as follows:

§ 201–2.001 Definitions.

* * * * *

"ADP equipment system" means an operational or managerial entity of general purpose ADPE components containing at least one separate identifiable central processing unit and such other components as input/output devices and storage units.

* * * * *

"Analog computer" means a computer that operates on continuous data as distinguished from discrete data. It translates physical conditions such as flow, temperature, pressure, angular position, or voltage into related mechanical quantities and uses mechanical or electrical equivalent circuits as an analog for the physical phenomenon being investigated.

* * * * *

"Automatic data processing equipment (ADPE)" means general purpose, commercially available, mass-produced automatic data processing devices; i.e., components and the equipment systems configured from them together with commercially available software packages that are provided and are not priced separately, and all documentation and manuals relating thereto, regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or applications and are not specially designed (as opposed to configured) for any specific application.

(a) Included are:

(1) Main-frame, mini, and micro digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybrid computer equipment, either cable or modem connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines that can be used in conjunction with or independently of digital, analog, or hybrid computers;

(4) Devices used to control and transfer data and/or instructions to and from a central processing unit (CPU), including data transmission terminals, batch terminals, display terminals, modems, sensors, multiplexors, and concentrators;

(5) Storage devices that are designed to be cable connected for use on line in which data can be inserted, retained, and retrieved for later use;

(6) General purpose mini or microcomputers used as control mechanisms where computer technology is essential in controlling, monitoring, measuring, and directing processes, devices, instruments, or other equipment (see also §§ 201–24.202 and 201–24.203); and

(7) Equipment used in office automation applications that is designed to be controlled by a general purpose data processing language primarily to be applied through the internal execution of a series of instructions, not limited to specific key stroke functions, and designed to process a variety of applications.

(b) Excluded are:

(1) ADPE systems and components specially designed (as opposed to configured) and produced to perform computational, data manipulation, or control functions, but which have no general purpose applicability;

(2) ADPE that is modified at the time of production to the extent that:

(i) It no longer has a commercial ADP market; or

(ii) It cannot be used to process a variety of applications; or

(iii) It can be used only as an integral part of a non-ADP system.

Note.—This change appeared in both FPR Temp. Reg. 71 and FPMR Temp. Reg. F–500/B–6.

* * * * *

"Digital computer" means a computer that operates on discrete data by performing arithmetic and logic processes on these data.

* * * * *

"Hybrid computer"' means a computer for data processing using both analog

representation and discrete representation of data.

* * * * *

"Information processing resource" means general purpose ADPE as defined in § 201–2.001, special purpose equipment that is excluded under paragraphs (b)(1) of the definition of ADPE, and the software terms defined in § 201–2.001. (An example of special purpose equipment is "office information system equipment" that is designated as Federal Supply Class (FSC) 7435 "A" in ADP nonmandatory schedule contracts.)

* * * * *

b. Section 201–16.002 is amended to add a paragraph (d) to broaden agency planning requirements to include specifically the consideration of the application of new information resources to agency needs, as follows:

§ 201–16.002 Planning requirements.

* * * * *

(d) Agency planning requirements should be promulgated in the agency directives system and should communicate to agency managers the goals, managerial approach, policies, procedures, and responsibilities of specific officials or offices for information resources management. The plan should address installed as well as new systems, procedures for post-installation review of new systems, and procedures for the periodic audit of information systems. Agencies are encouraged to consider GSA programs that are available to assist agencies in applying information processing resources to agency needs.

c. Section 201–24.208 is amended to add paragraph (c) to make optional the requirement to consider alternative methods of acquisition in some cases, as follows:

§ 201–24.208 Evaluation of acquisition alternatives.

* * * * *

(c) When an agency determines that a purchase alternative is likely to be the most advantageous method of acquisition for a system/item with an anticipated purchase price of $25,000 or less pursuant to analysis under paragraph (b) of § 201–30.007 and paragraph (c) of § 201–30.008, the analysis required by paragraph (a) of this § 201–24.208 is not required. (See also §201–24.216.)

d. Subpart 201–26.2 is added, as follows:

Subpart 201–26.2—Automatic Data Processing Equipment Data System (ADPE/DS)

§ 201–26.200 Scope of subpart.

This subpart sets forth the policy and criteria for the maintenance of an Automatic Data Processing Equipment Data System (APDE/DS) by Federal agencies.

§ 201–26.201 Effect on other directives.

This subpart supersedes the reporting requirements under the ADP Management Information System (ADP/MIS) established by Office of Management and Budget (OMB) Circular A–83, October 5, 1971, superseded by Federal Management Circular 74–2, February 25, 1974, superseded by FPMR Amendment F–31, June 1978, superseded by FPMR Temp. Reg. F–500, August 30, 1983.

§ 201–26.202 Policy intent.

This subpart establishes the requirement for developing, operating, and maintaining an ADPE/DS for ADP equipment systems assist the Office of Management and Budget (OMB), the General Services Administration (GSA), and other Federal agencies in carrying out their management responsibilities for the most effective and efficient use of ADPE. Agencies may supplement the data system to provide for their individual needs.

§ 201–26.203 Applicability.

(a) *Applicability.* The provisions of this subpart are applicable to all Federal agencies (as defined in § 201–2.001) having organizations (referred to herein as ADP units as defined in § 201–2.001) that use ADP equipment systems.

(b) *Exemptions:* The following are exempt from the reporting requirements of this subpart:

(1) Punched card machines, modems, and terminals;

(2) Analog computer systems even though a part of a hybrid system (The digital equipment system portion of the hybrid computer system is not exempt.);

(3) ADP equipment systems that are both integral to a combat weapon or space system and built or modified to special Government design;

(4) Totally Government-owned ADP equipment systems when the aggregate purchase price does not exceed $50,000;

(5) ADP equipment systems that are partially Government-owned and partially leased, when the total purchase price of the Government-owned components does not exceed $50,000, and the total lease charges for the leased components do not exceed $1,667 per month; and

(6) Leased ADP equipment systems when the monthly lease charges for the total configuration do not exceed $1,667.

§ 201–26.204 Policies and procedures.

(a) *Objective.* The ADPE/DS will provide inventory data on applicable ADPE that will:

(1) Facilitate the management of ADPE resources by Federal agencies;

(2) Facilitate the identification and replacement of obsolescent ADPE;

(3) Assist OMB, GSA, Office of Personnel Management, and the Department of Commerce in carrying out their specific Government-wide responsibilities relating to ADP as delineated in OMB Circular A–71, Subject: Responsibilities for the Administration and Management of Automatic Data Processing Activities; and

(4) Provide for future development of additional data subsystems that may become a part of the ADPE/DS or may be separate elements in an overall ADP management information system. This future development, as the need arises, would be under the direction of GSA's Office of Information Resources Management with participation of involved agencies.

(b) *ADPE/DS structure.* The ADPE/DS will be composed of the following major data elements:

(System record—Level I).

(1) Agency and subagency code (4 position code) as specified by Federal Information Processing Standard Publication 95 which identifies the agency and subagency;

(2) Agency ADP unit code (4 position code) used to uniquely identify the ADP unit within the subagency (will automatically generate the full address of the ADP unit as well as the name and telephone number for the contact at the ADP unit);

(3) System identification (2 position code assigned for each installed ADPE system at an ADP unit), and manufacturer's code (3 position code assigned to each manufacturer), and the system designation number as established by the manufacturer (seven position code);

(4) Acquisition date (4 position code) showing year and month of original acquisition in the Federal inventory;

(5) Fiscal year of expiration of planned system life (2 position code) (See § 201–30.008 and definition of system/item life in § 201–2.001);

(6) Fiscal year of next planned major replacement upgrade or augmentation (2 position code) with associated year of expiration of extended (if any) system life (2 position code);

(Component record—Level II).

(7) Agency ADP Unit Code—Repeat of (1) and (2) above;

(8) Component class (2 position code) represented in each system;

(9) Component ownership code (1 position code)—either (i) agency owned, (ii) straight lease, (iii) lease with option to purchase (LWOP), (iv) special lease plans, e.g., lease to ownership plan (LTOP), lease with title transfer plan, installment purchase plan (IPP), or alternate payment plan (APP), or (v) ADP Fund leased;

(10) Component designation by manufacturer/type/model (11 position code);

(11) Quantity of components in each ownership code (3 position code);

(12) Component cost in reported system—Most recent purchase price in hundreds of dollars (6 position code) and/or most recent monthly rental price in hundreds of dollars including maintenance (4 position code);

(13) Utilization percentage (2 position code) average for each ADP Fund leased item.

Note.—The system composition and cost will be calculated from the component data.

§ 201-26.205 Responsibilities.

(a) The Office of Information Resources Management, GSA is responsible for:

(1) Developing and issuing the necessary reporting procedures for carrying out the provisions of this subpart relating to ADPE/DS;

(2) Establishing the equipment inventory on a perpetual basis;

(3) Maintaining subsystems that may be part of the data base;

(4) Responding to requests from agencies and others for data from the data base; and

(5) Developing and/or participating in the development of reporting subsystems.

(b) Federal agencies are responsible for:

(1) Developing internal implementing instructions to carry out the objectives of this subpart;

(2) Furnishing the necessary data on an accurate and timely basis to comply with this subpart;

(3) Ensuring the use of these data to improve management practices; and

(4) Recommending such changes, additions, or deletions to the ADPE/DS as they deem necessary to improve the effectiveness of the system.

§ 201-26.206 Reporting requirements.

(a) *Initial reporting.* During the last week of September 1983, GSA (KHEE) will convert the current ADP/MIS data base to the new ADPE/DS data base. Hard copy will be provided to each of the Government agencies for verification and annotation of the new data elements. Verified and annotated copy shall be completed and returned to GSA within forty-five days of its receipt.

(b) *Regular reporting.* Agency updates to the data base shall be submitted thereafter at the end of each calendar quarter. Agency data shall be forwarded, in accordance with the instructions contained in a GSA Handbook that will supplement this subpart, addressed to : General Services Administration (KHEE), Washington, DC 20405

(c) *Special reporting.* GSA reserves the right to require Government agencies to submit special reports as to the quantities, kinds, and locations of computers acquired below the dollar thresholds stated in § 201-26.203(b) (4), (5), and (6) during a particular period with the reporting details and format to be specified at the time of call. At least 60 calendar days will be provided for agencies to respond. Submissions will not be required more often than once per year.

(d) *Consolidation.* Agencies may provide both regular and special reports on either a centralized or decentralized basis.

(e) *Reports control.* This report has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 0312-GSA-QU.

e. Section 201-30.007 is added to include information processing resources and to allow more agency discretion regarding the size, scope, and frequency of the requirements analysis, as follows:

§ 201-30.007 Determination of need and requirements analysis.

(a) The acquisition of new or additional information processing resources shall be based on mission needs. These needs shall be expressed in the form of deficiencies in existing capabilities, new or changed program requirements, or opportunities for increased economy and efficiency. In any event and as required by § 201-20.003, the needs shall be supported by a requirements analysis that is commensurate with the size and complexity of the need.

(b) Agencies may find it more cost effective to conduct requirements analyses based on aggregated requirements. Requirements may be aggregated on either organizational or functional bases. Aggregated requirements analysis may be used where the applications and work environments of the individual requirements are homogeneous and where adequate workload measures and performance indicators are available. Individual requirements analyses are required when this is not the case.

(c) As a minimum, the agency shall consider the following factors in the requirements analysis:

(1) The information processing functions that must be performed.

(2) The agency applications, information resource systems, and components involved, their physical locations, and operational constraints.

(3) The problem that will be solved by acquiring new or additional equipment, systems and/or software.

(4) The nature of the data or information to be generated, transmitted, or stored on the proposed equipment or system, who will maintain it, and who will require access to it.

(5) The feasibility of sharing, using reassigned or excess Government-owned or -leased equipment, the off-loading of lower priority applications, using Federal data processing centers and GSA sources of supply, using commercial ADP services, or if applicable, increasing the capability and productivity of the existing system.

(6) The probable improvement in operational effectiveness and the economies that will be realized from acquiring new or additional equipment, systems, and/or software.

(7) Space management considerations; e.g., heat dissipation, air flow, temperature range, relative humidity, energy conservation, power supply, cables, including coordination with building managers and GSA (See FPMR § 101-17.101-5.).

(8) The present and projected workload in terms of:

(i) Systems life;

(ii) Data entry and associated communications support;

(iii) Data base(s) and data base management;

(iv) Data handling or transaction processing by type and volume;

(v) Output needs and associated communications support;

(vi) Expandibility requirements; and

(vii) Privacy and security safeguards.

f. Section 201-30.007-1 is added to provide guidance on records management analysis factors, as follows:

§ 201-30.007-1 Records management factors.

Agencies shall consider the following records management factors when performing a requirements analysis or designing an information system:

(a) Does the system design protect against the accidental destruction of records?

(b) Is there a records disposition schedule for the records being created by the equipment or system?

(c) Does the equipment or system use forms and, if so, have they been produced in accordance with the agency forms management program?

(d) Does the equipment or system produce reports subject to the agency reports control program?

g. Section 201–30.008 is amended to add a new paragraph (c) to make determination of system/item life optional for low cost equipment that is to be purchased, as follows:

§ 201–30.008 Determination of system/item life.

* * * * *

(c) The determination of a system/item life is optional for a system/item with a purchase price of $25,000 or less when there is a reasonable certainty that purchase will be the most advantageous method of acquisition. However, if lease or rental plans are to be solicited, the determination of a system/item life is necessary to conduct a meaningful lease/purchase evaluation.

h. Section 201–30.009 is added to include a reference to obsolescent ADPE and a list of alternatives in paragraph (a) and to reserve paragraph (b), as follows:

§ 201–30.009 Analysis of alternatives for satisfying a requirement.

(a) A comparative cost analysis shall be performed for each identified requirement or when planning (see § 201–16.002) indicates the possible existence of obsolescent ADPE; i.e., equipment becoming outmoded or out of date, thereby reducing productivity. The purpose of the analysis is to determine which alternative will meet the user's needs at the lowest overall cost over the system/item life. Except as provided in paragraph (b) of this section, the alternatives to be considered shall include, but are not limited to the following:

(1) Use of non-ADP resources to satisfy the requirement.

(2) Use of existing ADP facilities (e.g., Federal Data Processing Centers) and resources on a shared basis. OMB Circular A–121 requires executive agencies to establish a management control procedure to determine which existing data processing facility will be used to support major new applications (see Part 201–31).

(3) Use of commercial ADP services.

(4) Redesign of application programs, using Federal or ANSI standard language to the maximum practicable extent.

(5) Revision of production schedule or job stream and matching work elements to resource systems to improve productivity.

(6) Additional or change in working shifts to increase capacity.

(7) Augmentation of installed ADPE by adding additional components to increase data processing capacity.

(8) Upgrading selected system components, such as adding additional selector channels, memory, faster tape or disk units, etc., in order to improve throughput capability.

(9) Replacing installed ADP system with a compatible system that will handle the workload.

(10) Competitive replacement of the installed ADP system through use of functional specifications.

(b) [Reserved]

i. Section 201–30.009–1 is added to provide an alternate comparative cost analysis for low cost requirements, as follows:

§ 201–30.009–1 Analysis of low value acquisitions.

When the anticipated value of the procurement is $50,000 or less, the comparative cost analysis may be limited to an analysis that demonstrates that the benefits of acquiring the proposed system/item will outweigh the costs. However, requirements shall not be fragmented to circumvent this threshold. (For example, if the total cost of the various components of a system exceed $50,000, they may not be acquired individually to avoid a comprehensive comparative cost analysis.)

6. *Other FIRMR designated FPMR Temp. Reg. F–500 changes.* The change made by par. 5a(1) of FPMR Temp. Reg. F–500/B–6 is canceled. This change is codified at § 201–1.101.

7. *Agency Action.* Pending the issuance of a permanent amendment of the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR designated FPMR Temp. Reg. F–500/B–6.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* Inquiries should be directed to David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone (202), 566–0194 or FTS, 566–0194.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1943 Filed 1–29–85; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Parts 201–38 and 201–39

[FIRMR Temp. Reg. 9]

Data Communication Systems and Services

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reissues regulations which prescribe the information GSA needs to review agency requirements for data, facsimile, or record telecommunication systems or services. The regulation also recognizes the abolishment of GSA's Communication Management Information System (C/MIS). The action is necessary to change section and reference captions to be consistent with the integrated text of the Federal Information Resources Management Regulation (FIRMR) from those used in the original promulgation of the Federal Property Management Regulations (FPMR) Temporary Regulation F–502 dated September 29, 1983 (48 FR 49240, October 25, 1983). The intended effect is to continue the temporary provisions until consideration for codification into the FIRMR is accomplished.

DATES: Effective date: April 1, 1985, concurrent with the effective date of Amendment 1 to the FIRMR, which promulgates integrated text of former Federal Procurement Regulations (FPR) and FPMR codified provisions.

Expiration date: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to

Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 201, the following temporary regulation is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 9 (Reissue of FPMR Temp. Reg. F–502 Provisions)

December 21, 1984

To: Heads of Federal agencies

Subject: Data communication systems and services

1. *Purpose.* This regulation prescribes the information the General Services Administration (GSA) needs to review agency requirements for data, facsimile, or record telecommunication systems or services. This regulation also recognizes the abolishment of GSA's Communication Management Information System (C/MIS). It consolidates all regulations concerning the review and approval of data, facsimile, and record services. This reissue as a FIRMR temporary regulation adds section and reference captions to the regulatory provision changes made in Federal Property Management Regulations (FPMR) Temporary Regulation F–502 dated September 29, 1983 (48 FR 49240, October 25, 1983).

2. *Effective date.* The effective date of this Temp. Reg. 9 is concurrent with the effective date of Amendment 1 to the FIRMR (April 1, 1985), which contains integrated text of former Federal Procurement Regulations (FPR) and FPMR codified provisions. (The provisions were first effective October 1, 1983.)

3. *Expiration date.* September 30, 1985.

4. *Background.* The FIRMR was originally established without publication of an integrated text (except for Part 201–1) (49 FR 20994, May 17, 1984). Parts were designated FIRMR provisions by revising the chapter designators of existing FPR (Ch. 1) or FPMR (Ch. 101) provisions to FIRMR (Ch. 201) designators. Amendment 1 to the FIRMR publishes a new integrated text for the FIRMR. The intent of this reissue of FPMR Temp. Reg. F–502 is to provide the user with FIRMR provisions changed to be consistent with Amendment 1. In a subsequent FIRMR amendment action the provisions in this regulation will be integrated into the FIRMR with appropriate explanations. This two-step process was adopted to maintain user visibility that Amendment 1 contains no changed authorities, policies, or procedures.

5. *Explanation of changes.* The subparagraphs of this paragraph 5 are revised to be consistent with Amendment 1 changes to the FIRMR.

a. Section 201–38.010 is added, as follows:

§ 201–38.010 Analysis of data communications requirements.

Agencies should develop a plan that will ensure adequate service before they lease or purchase any intercity communication facilities. Agency plans and associated actions should be based on the findings of a determination of need and requirements analysis, and a comparative cost analysis.

(a) *Determination of need and requirements analysis.* The acquisition of new or additional telecommunications capabilities shall be based on program needs that flow from mission requirements. These needs may be expressed in the form of deficiencies in existing capabilities, new or changed mission requirements, or opportunities for increased economy and efficiency. In any event, the needs shall be supported by a requirements analysis commensurate with the size and complexity of the need.

(b) *Comparative cost analysis.* A comparative cost analysis shall be performed for each requirement to determine which alternative will meet the user's needs at the lowest overall cost, price and other factors considered, over the system/service life.

(c) *Common use systems.* Agencies shall consider use of available consolidated services. GSA and the Defense Communications Agency (DCA) provide economical communications services to Federal agencies by obtaining resources in bulk quantities from commercial carriers. Economy of scale discounts are available under the DCA's Multiplex service and GSA's Consolidated DATACOM Network, the Federal Telecommunications System (FTS), and through the value added network (VAN) billing program.

b. Section 201–39.002–3 is added, as follows:

§ 201–39.002–3 Data, facsimile, and records telecommunication services.

(a) These services are installation, replacement, relocation, removal, or use of intercity network data, facsimile, and record telecommunication services or facilities that exceed $50,000 in annual lease or purchase cost. Data, facsimile, and record transmission channels or equipment, either electrically, electronically, or acoustically coupled and multiplexing facilities, regardless of transmission speed are included.

(b) Local data, facsimile, or record telecommunication requirements are not included.

(c) Requirements where dedicated access to the FTS intercity voice network or to FTS local service systems are included, regardless of cost.

c. Section 201–39.006–4 is added, as follows:

§ 201–39.006–4 Data, facsimile, and record telecommunication services submissions.

(a) Agencies requiring intercity data, record, or facsimile transmission network services or facilities that exceed $50,000 in annual lease or purchase cost (major changes and new installations as described in § 201–39.002–3) shall submit the Agency Telecommunications Request (ATR) to the General Services Administration (KMAS), Washington, DC 20405. The ATR shall include the information as set forth in paragraph (c) of this § 201–39–006–4. Local data, record, or facsimile telecommunication requirements do not require GSA review and approval.

(b) Public Law 96–511 (the Paperwork Reduction Act of 1980) directs each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official in each agency shall advise GSA in writing of the position, title, and organization identity of those officials who have been authorized to submit ATRs to GSA. The designated senior official shall keep the listing current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to the General Services Administration (KMAS), Washington, DC 20405.

(c) Agency telecommunication request (ATR) submissions for intercity data transmission facilities or services required by paragraph (a) of this § 201–39.006–4 shall be prepared as follows:

(1) *Agency Information:* Provide agency name, address, and names and telephone numbers of appropriate agency technical and contracting points of contact.

(2) *Project Title and Description:* (i) Provide the project title and a brief but specific description of the primary agency program(s) that the required telecommunications resources will support.

(ii) Provide a brief but specific description of the current intercity data telecommunications transmission facilities (including major systems components) and services currently supporting the program(s).

(iii) Provide a brief but specific description of the intercity data telecommunications transmission facilities (including major systems components) and services requirements to be acquired. Include a network diagram, if appropriate, or such other pertinent information agencies may wish to present that will enable GSA to understand the requirement. This description should reflect resources required for system expansion (i.e., anticipated augmentation and other major systems modifications) during the system life if such requirements will be included in the solicitation document as evaluated options.

(3) *Acquisition Strategy:* (i) Indicate whether the proposed procurement approach is competitive or noncompetitive (sole source, including use of specific make and model purchase descriptions) and specify the type of contract expected to be used. Indicate whether GSA multiyear contracting authority is required.

(ii) Identify by fiscal year quarter the planned milestone dates for (A) release of solicitation document and (B) contract award.

(4) *Estimated Contract Life and Cost:* Identify the estimated contract cost of the acquisition (not the overall systems life cost) for the contract life. Include all anticipated optional quantities, services, and periods. Detailed cost breakdowns may be included when necessary to describe clearly the estimated costs. The estimated contract cost (for all years) should correspond to the planned contract life.

Note.—The GSA approval resulting from the submission will be limited to quantities and years described herein.

(5) *Regulatory Compliance:* Provide the date of completion or most recent update of the following documentation or indicate not applicable:

(a) Requirement analysis; and

(b) Comparative cost analysis.

(6) *Agency/GSA references:* Provide references to previous GSA FPMR approvals (including previous GSA case number), meetings, telephone discussions, etc.

(7) *Agency authorized signature, position title, organizational identity, date:* Provide these data.

Note.—GSA will process only those agency submissions signed by an authorized official. See paragraph (b) of this § 201–39.006–4.

d. Section 201–39.006–5 is added, as follows:

§ 201–39.006–5 GSA common user data communication system submissions.

Agencies that plan to use GSA common user data communication systems shall provide the following information only when dedicated network access is required:

(a) A list of all network dedicated locations;

(d) An estimate of the peak transmission rate to and from each dedicated location in bits per second (bps), characters per second (cps), or facsimile pages per minute; and

(c) A description of the network conditioning, security, accuracy, and error detection required.

e. Section 201–39.007–3 is added, as follows:

§ 201–39.007–3 Action on data telecommunication service submissions.

GSA will normally base its review only on the information provided in the ATR submission under § 201–39.006–4. However, when necessary, GSA will conduct a more in-depth review before approving an ATR. In some instances, this may require the submission of additional information. In this regard, GSA reserves the right to review agency actions implementing any requirements described in § 201–39.002–3. Documentation shall be made available for review upon request of GSA officials. (Documentation should be retained in agency files for such periods as required by applicable law or regulation.)

6. *Other FIRMR designated FPMR Temp. Reg. F–502 changes.* The Communication Management Information System (C/MIS) program and all forms and reports associated with the program are abolished. Agencies should determine their individual needs to maintain current information concerning data telecommunication assets.

Note.—Section 101–37.201–4 of the FPMR is not codified in Amendment 1 to the FIRMR.

7. *Agency action.* Pending the issuance of a permanent amendment to the FIRMR, agencies shall follow the policies and procedures in this temporary regulation.

8. *Effect on other directives.* This regulation supersedes FIRMR designated FPMR Temp. Reg. F–502.

9. *Distribution of this directive.* Because the FIRMR looseleaf edition distribution list has not yet been established, this FIRMR temporary regulation will be distributed to addressees on GSA's FPR and FPMR Subchapters B and F publication distribution lists. It is suggested that the directive be retained for continuing use until the provisions are incorporated into the FIRMR or are otherwise superseded or canceled.

10. *Information and assistance.* For further information or assistance concerning submission of data communication requirements, contact GSA at the following address and telephone number: General Services Administration (KMAS), Washington, DC 20405, Telephone: (202) 566–1566 or FTS, 566–1566.

Ray Kline,

Acting Administrator.

December 21, 1984.

[FR Doc. 85–1944 Filed 1–29–85; 8:45 am]

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federal register

Wednesday
January 30, 1985

Part III

Environmental Protection Agency

Dioxin and Furan Pollution; Partial Grant of Environmental Defense Fund/National Wildlife Federation Citizens' Petition; Notice of Partial Grant

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-211016; TSH-FRL 2755-6]

Dioxin and Furan Pollution; Partial Grant of Environmental Defense Fund/ National Wildlife Federation Citizens' Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Partial Grant of Citizens' Petition.

SUMMARY: On October 22, 1984, the Environmental Defense Fund and the National Wildlife Federation filed a citizens' petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. The petition requested that EPA commence specified regulatory actions related to certain dioxins and dibenzofurans and initiate certain related investigations and research. The Administrator has granted the Petitioners' requests to initiate certain actions under TSCA to collect information, provided the appropriate determination can be made. The Administrator has denied the Petitioners' requests for immediate regulatory action under TSCA section 6. In addition, this petition is denied to the extent it requests EPA to take actions that fall under the jurisdiction of other Agency-administered statutes. Such action is not subject to a petition under section 21 of TSCA. EPA was, however, aware of the issues raised by the Petitioners and has a number of ongoing or planned activities which address dioxin and dibenzofuran environmental and public health concerns. EPA believes that these activities, described herein, represent a comprehensive and appropriate response to the Petitioners' environmental and public health concerns, given the state of knowledge, and EPA's statutory authorities.

FOR FURTHER INFORMATION CONTRACT:

For docket information: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the U.S.A.: (Operator-202-554-1404).

For program information: Barry R. Korb (WH-562A), Office of Solid Waste and Emergency Response, Environmental Protection Agency, Rm. S-202, 401 M St., SW., Washington, DC 20460, In Washington, DC: (382-4664), Outside the U.S.A.: (Operator-202-382-4664).

SUPPLEMENTARY INFORMATION: This notice is organized in accordance with the following outline:

I. Introduction
- A. Terminology
- B. Summary of the Petition
- C. Petitioners' Arguments
- D. Statutory Requirements

II. Response to Petition
- A. Introduction
- B. The Response

III. Discussion of Isomers, Contamination Limits, Time Frames and Products Identified in Petition

IV. Petitioners' Requests Under TSCA
- A. Summary of Agency Response to TSCA Requests
- B. Agency's Explanation for Denying the Request to Issue Rules Under Section 6 of TSCA
- C. Agency's Plan to Collect Information Under Section 4 and 8 of TSCA
- D. Other Actions Under TSCA

V. Petitioners' Requests Addressed Under Other Authorities
- A. Pesticides
- B. Wastes
- C. Water Discharges
- D. Air Emissions
- E. Research

VI. National Dioxin Strategy

VII. Official Record for the Petition

VIII. References

IX. Conclusion

Introduction

On October 22, 1984, EPA received a document entitled "Petition of the Environmental Defense Fund and the National Wildlife Federation for Rulemaking to Prevent and to Reduce Environmental Contamination by Dioxins and Dibenzofurans" from the Environmental Defense Fund and the National Wildlife Federation. The Petitioners have requested that EPA take action to regulate certain chlorinated dibenzo-*p*-dioxins and their structural analogues, brominated dibenzo-*p*-dioxins and chlorinated and brominated dibenzofurans.

A number of dioxins, including 2, 3, 7, 8-tetrachloro-dibenzo-*p*-dioxin (2,3,7,8-TCDD), are formed as inadvertent byproducts during the manufacture of certain organic chemicals, particularly chlorinated phenols. Combustion sources such as municipal and industrial waste incinerators and accidental transformer fires (where the transformers contained a mixture of polychlorinated biphenyls (PCDs) and chlorobenzenes) have also been identified as sources of dioxins. Among 60 carcinogens evaluated by EPA's Carcinogenic Assessment Group, 2,3,7,8-TCDD and a mixture of the two isomers of hexachlorodibenzo-*p*-dioxin substituted at the 2,3,7, and 8 positions were ranked first and second in carcinogenic potency in animals. None of the other chemicals subject to this petition were among the 60 carcinogens evaluated.

Dibenxofurans are structurally similar to dioxins. Chlorinated dibenzofurans have been found as contaminants in PCBs and pentachlorophenol, and have been detected in products of combustion released from incinerators and PCB-transformer fires.

EPA is implementing a strategy (the National Dioxin Strategy) to study the extent of dioxin contamination and the associated risks to human health and the environment, to ensure necessary clean-up actions at contaminated sites, and to regulate as necessary to prevent further contamination at levels of concern. Specific EPA actions commenced under the Dioxin Strategy are discussed throughout this response and in detail in unit VI. The Petitioners have requested that EPA take additional action to reuglate certain dioxins and dibenzofurans specified in the petition.

A. Terminology

The following terminology and abbreviations are used in this response:

1. The term "isomer" refers to any one particular member of a class of chemicals. A specific isomer is denoted by unique chemical notation, for example, 2,3,7,8-tetrachlorodibenzofuran.

2. The term "homologue" refers to a group of isomers that have the same degree of halogenation. For example, the homologuous class of tetrachlorodibenzofurans consists of those dibenzofurans that have four chlorine atoms.

3. "Polyhalogenated dibenzo-*p*-dioxin" refers to any member of a class of dibenzo-*p*-dioxin containing one to eight chlorine, bromine, or a combination of chlorine and bromine substituents. "Polychlorinated dibenzo-*p*-dioxin" refers to any member of a class of dibenzo-*p*-dioxin with one to eight chlorine substituents. "Polybrominated dibenzo-*p*-dioxin" refers to any member of a class of dibenzo-*p*-dioxin with one to eight bromine substituents.

4. "Polyhalogenated dibenzofuran" refers to any member of a class of dibenzofurans with one to eight chlorine, bromine, or a combination of chlorine and bromine substituents. "Polychlorinated dibenzofuran" refers to any member of a class of dibenzofuran with one to eight chlorine substituents. "Polybrominated dibenzofuran" refers to any member of a class of dibenzofuran with one to eight bromine substituents.

5. The following abbreviations are used throughout this response:

polyhalogenated dibenzo-*p*-dioxin, PHDD
polychlorinated dibenzo-*p*-dioxin, PCDD
polychlorinated dibenzo-*p*-dioxin, PBDD
polychlorinated dibenzofuran, PHDF
polychlorinated dibenzofuran, PCDF
polychlorinated dibenzofuran, PBDF

When specific isomers or homologous classes are referred to, the following abbreviations for the prefix denoting the number of halogens are used:

tetra, T
penta, Pe
hexa, Hx
hepta, Hp
octa, O

The homologous class of tetrachlorodibenzo-*p*-dioxin, for example, is abbreviated TCDD. The abbreviation for 1,2,3,7,8-pentabromodibenzofuran is 1,2,3,7,8-PeBDF. The abbreviation for dibenzofuran with six chlorine or bromine substituents is HxHDF.

6. The terms "specified isomers of concern", "specified isomers", and "specified PHDDs and PHDFs" refer to the generic class of isomers for which the Petitioners have requested regulatory action. The Petitioners defined this class as follows: "Those brominated and/or chlorinated (that is halogenation by chloirne, bromine, or any mixture thereof) at the following positions: 2,3,7,8; 2,3,6,7,8; 1,2,3,7,8; 2,3,7,8,9; 1,2,3,6,7,8; 1,2,3,7,8,9; or 1,2,3,6,7,8,9. This definition includes the following isomers:

2,3,7,8-THDD
1,2,3,7,8-PeHDD (same as 2,3,6,7,8- and 2,3,7,8,9-PeHDD)
1,2,3,6,7,8-HxHDD
1,2,3,7,8,9-HxHDD
1,2,3,4,6,7,8-HpHDD (same as 1,2,3,6,7,8,9-HpHDD)
2,3,7,8-THDF
2,3,4,7,8-PeHDF (same as 2,3,6,7,8,-PeHDF)
1,2,3,7,8-PeHDF (same as 2,3,7,8,9-PeHDF)
1,2,3,6,7,8-HxHDF
1,2,3,7,8,9-HxHDF
1,2,3,4,7,8,9-HpHDF (same as 1,2,3,6,7,8,9-HpHDF).

7. The term "products" is used in the petition to include all chemical substances and mixtures. The Petitioners requested regulation under TSCA covering "all products and articles containing these products, which have been demonstrated to contain or may be reasonably expected to contain . . . any of the specified isomers."

B. Summary of the Petition

The Petitioners state that the specified isomers of concern are a major health and environmental concern because of their measured or inferred physical, chemical, biological and toxicological properties and the detection of these isomers at levels of concern in the environment, biota, human food and water supplies and commercial products.

They are petitioning EPA to use its authority under TSCA to analyze aggregate hazards posed by multi-media emissions of these chemicals and to integrate a multi-media approach to the aggregate risks. The Petitioners contend that EPA can pursue this integrated approach only through use of these TSCA authorities. The Petitioners argue that EPA's failure to set explicit regulatory standards for PHDDs and PHDFs has had deleterious impacts on state efforts to deal with ongoing crises. Although Petitioners acknowledge that EPA has recognized the need for a comprehensive approach to dioxin risks in its Dioxin Strategy, they claim that the Agency has only dealt with cleaning up existing contamination without taking sufficient action to prevent future contamination. Petitioners argue that EPA has failed to deal with continuing generation of PHDDs and PHDFs, has inefficiently focussed its regulatory energies by dwelling on one isomer at a time in its various regulatory proceedings, has acted under a loose schedule for developing hazard and exposure assessments, guidance documents, sampling methodologies and research agenda and has failed to articulate data needs for regulatory decisionmaking.

In order to remedy these perceived deficiencies, Petitioners request that EPA take a number of specific regulatory and information gathering actions to regulate generically, as a class of chemicals, certain isomers that they refer to as "specified isomers of concern."

In order to prevent or reduce the entry of the specified PHDDs and PHDFs into the environment, the Petitioners request that EPA take the following actions under section 6 of TSCA for all products and articles which have been demonstrated to contain or may be reasonably expected to contain the specified PHDDs or PHDFs including pentachlorophenol, pentabromophenol, polybromobisphenol-A, polychlorobisphenol-A, halogenated phenols (2,4,5), halogenated benzenes (2,4,5), chloranil, 2,4-D, hexachlorophene, nitrofen, ronnel, erbon, MCPA [(4-chloro-o-tolyloxy) acetic acid], PCNB (pentachloronitrobenzene), isobac, fenoprop, dichloroprop, mecoprop, and bendiocarb:

a. Solicit information from industry and, by July 1, 1985, complete a report on the products and articles requiring regulation; solicit information and complete a report on alternative ways of producing chlorinated and brominated phenols, benzenes, bisphenols, and biphenyls; investigate the possibility that substitutes may have already obviated the need to produce some of these products; and consider using the authority of TSCA to encourage technological innovation to prevent otherwise unavoidable generation of PHDDs and PHDFs;

b. By July 1, 1986, prohibit under section 6(a)(1) the distribution in commerce of products containing any of the specified PHDDS or PHDFs in concentrations greater than 0.1 ppb;

c. By July 1, 1986, require under section 6(a)(4) that manufacturers conduct periodic testing of their products and processes and maintain records on concentrations of the specified PHDDS and PHDFs;

d. By July 1, 1986, require under section 6(a)(3) that any product which still contains any of the specified PHDDS or PHDFs in concentrations greater than 0.01 ppb have a warning label;

e. Under section 6(a)(6), require that all product waste or residues containing any of the specified PHDDS or PHDFs in concentrations greater than 1 ppb be channeled out of water discharges and air emissions and disposed of as solid waste, for which EPA may then require appropriate treatment (In establishing these rules, EPA should consider the procedures and authorities available under other EPA laws, including the Clean Water Act (CWA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), and the Marine Protection, Research and Sanctuaries Act (MPRSA).);

f. Under section 6(b)(2), determine whether quality control procedures of manufacturers and processors of products containing any of the specified PHDDs or PHDFs are inadequate to prevent an unreasonable risk of injury to health or the environment, and if so, require manufacturers or processors to revise their procedures as necessary to remedy the identified inadequacies;

g. Under section 8(a)(1)(A), issue rules requiring any person who manufactures or processes, or proposes to manufacture or process any of the chemical substances or mixtures listed in section IV.A.2 of the petition to submit reports to the Administrator which, at a minimum, include a description of any of the specified PHDDs of PHDFs generated as by-products during manufacture, processing, or use of each such substance of mixture, the number of

individuals exposed, and reasonable estimates of the number who will be exposed;

h. Under section 8(c), issue rules requiring any person who manufactures, processes, or distributes in commerce any of the chemical substances or mixtures listed in section IV.A.2 of the petition to maintain records of significant adverse reactions to health or the environment alleged to have been caused by the specified PHDDs or PHDFs, and require that copies of all such records be submitted to the Administrator;

i. Under section 8(d), issue rules requiring any person covered under that section to submit to the Administrator lists and copies of health and safety studies with respect to the specified PHDDs or PHDFs;

j. If the Adminstrator determined that any or all of the actions requested by the petition cannot be taken due to the lack of data or experience with regard to the risks to health and the environment posed by the specified isomers, issue a testing rule under TSCA section 4(a)(1)(A) for those specified PHDDs or PHDFs (or combinations of PHDDs or PHDFs) for which insufficient data or experience are determined to exist.

Although this petition is filed exclusively under TSCA, the Petitioners elaborate on methods to achieve some of their requests under other acts. In particular, the Petitioners request that EPA:

1. Take the following actions under RCRA and SDWA to regulate waste contaminated with the specified PHDDsand PHDFs:

a. By January 1, 1985, under RCRA section 3001, list all wastes specified in EPA's proposed rule of April 4, 1983 (48 FR 14514) as hazardous wastes;

b. By May 1, 1985, under RCRA section 3001, list all wastes not covered by the April 4, 1983, proposed rule, which contain the specified PHDDs or PHDFs, as hazardous wastes;

c. By May 1, 1985, ban the land disposal, ocean dumping, and underground injection of all such listed waste and require that the waste be incinerated;

d. By May 1, 1985, strengthen the present incineration standard for all such listed wastes to a destruction and removal efficiency (DRE) of 99.9999 percent;

e. By July 1, 1985, prohibit underground injection of waste containing the specified PHDDs or PHDFs in excess of 1 ppb;

2. Take the following actions under the CWA to regulate the discharge of the specified PHDDs or PHDFs into water:

a. By July 1, 1985, under the authority of section 307(a)(1) of the Clean Water Act (CWA), list the specified PHDDs or PHDFs and promulgate an effluent prohibition for the discharge of the specified PHDDs or PHDFs into the waters of the United States;

b. By July , 1986, under section 307(a)(5) of the CWA, apply the prohibition to the following facilities whether discharging directly to surface water or indirectly through public-owned treatment works (POTWs):

(i) All present or past manufacturers, processors, packagers, or users of 2,4,5-T, silvex, erbon, 2,4,5-TCP, hexachlorophene, pentachlorophenol, and ronnel;

(ii) All facilities which have reported discharging these products;

(iii) All facilities which have ever reported the possibility of discharging the specified isomers pursuant to the requirements of 40 CFR 122.21(g)(7)(v);

c. By December 31, 1985, publish Water Quality Criteria governing the specified PHDDs and PHDFs, similar to those published for 2,3,7,8–TCDD under section 304 of the CWA;

d. By July 1, 1985, promulgate appropriate guidelines and regulations defining the methods to be used in determing compliance with the effluent and water quality standards, including the following:

(i) Promulgation by July 1, 1985, under section 304(h) of the CWA, of high volume preconcentration techniques to be used in performing Gas Chromotography/Mass Spectroscopy (GC/MS) sampling of effluents from facilities covered by the effluent prohibition;

(ii) Promulgation by July 1, 1985, under section 304(h) of the CWA, of guidelines for biomonitoring of caged fish exposed to the influent and effluent of all facilities covered by the effluent prohibition, with the effluent prohibition, by definition, allowing for no net detectable increase in fish tissue concentrations;

(iii) Promulgation by December 31, 1986, under section 304(e) of the CWA of Best Management Practices (BMPs) for all facilities covered by the effluent prohibition to require collection and proper treatment of all site runoffs from such facilities and the proper disposal of all equipment used at any time in the handling, packaging, processing, or manufacture of products of concern and that the Administrator require that these BMPs be included as a condition in the NPDES permits for these facilities within one year of the promulgation of the requested effluent prohibition;

(iv) By July 1, 1986, require all POTWs accepting wastewater from any facility covered by the effluent prohibition to use their authority under the pretreatment program to require compliance by such facilities with the effluent prohibition;

(v) By December 31, 1986, determine the sufficiency of areawide waste treatment plans under CWA section 208(b)(2)(k) to protect surface and ground waters from contamination by the specified isomers;

(vi) Conduct an investigation of potential municipal and industrial sources of the speified PHDDs and PHDFs which are not covered in item 2.b.i. to determine the need for extending the effluent prohiition to include those sources;

3. Take the following actions under section 112 of the Clean Air Act to regulate air emissions of the specified PHDDs and PHDFs:

a. By January 1, 1985, Undertake stack monitoring at major representative municipal and hazardous waste incinerators and estimate intermedia transfers;

b. By January 1, 1985, initiate a study to ascertain air emissions from other sources including manufacturers and hazadous waste disposal sites;

c. By July 1, 1985, complete health assessment documents for the specified isomers not included in "Health Assessment Document for Polychlorinated Dibenzo-*p*-dioxins", that is, the specified isomers other than 2,3,7,8-TCDD, 1,2,3,7,8-PeCDD, and 1,2,3,6,7,8 and 1,2,3,7,8,9-HxCDD;

d. By July 1, 1986, promulgate an air emission standard of 0.1 parts per trillion on a volume basis for the sum of the specified PHDDs and PHDFs at the stack or source.

The Petitioners also request that EPA undertake the following research activities in addition to those specified above:

1. Obtain information on the extent of contamination by PBDDs and PBDFs of bromophenol, bromobenzene, and other brominated commercial products;

2. Update EPA's survey of dioxin and furan emissions from large-scale municipal incinerators and resource recovery facilities;

3. Continue research on the toxicity and environmental fate of PHDDs and PHDFs, incuding examination of toxic effects in addition to cancer, and examination of aquatic toxicity to determine the need for further regulation;

4. Conduct research to determine environmental fate characteristics and toxicity of PHDDs and PHDFs in the aquatic environment.

C. Petitioners' Arguments

Petitioners argue that the specified isomers of concern should be treated as a generic class and regulated using data already available. They assert that sufficient information is available to support regulatory decisionmaking on the specified isomers of concern. According to Petitioners, generic treatment of these isomers is justified by the similar properties of high toxicity, persistence and potential for bioaccumulation common to these isomers. Petitioners acknowledge that, in the future, evidence may be gathered to show that some isomers are less toxic, persistent or bioaccumulative, but contend that in the absence of such evidence all isomers should be treated generically.

Furthermore, Petitioners reviewed sources of toxicological and epidemiological data to arrive at the regulatory limits requested in their petition.

A summary of Petitioners' evidence in the areas of toxicity and exposure, as well as their reasons for requesting the regulatory limits, are described below.

1. *Toxicity.* Petitioners cite several documents showing that chronic exposure to a number of the isomers of concern is associated with a range of severe toxic effects such as hepatotoxicity, hematotoxicity, neurotoxicity, immunotoxicity, reproductive toxicity and cancer.

Although most data available are for 2, 3, 7, 8-TCDD, apparently the most toxic isomer, Petitioners argue that toxicity of other PHDD and PHDF isomers halogenated at the 2, 3 and 7 positions may be inferred through structure-activity relationships (SAR). SAR theories are used by scientists in appropriate circumstances to infer that chemicals with closely related structures act the same toxicologically and metabolically.

To support the assertion that toxicity can be inferred from structure-activity relationships, Petitioners cite a number of studies that show similar effects for those isomers of concern that have been tested. Petitioners acknowledge that not all isomers have been tested and that there is some interspecies variation, but argue that the existing evidence can provide a reasonable basis for considering isomers halogenated at the 2, 3, 7 and 8 positions as equipotent for regulatory purposes. Petitioners present data from tests on acute toxicity showing both similar high lethality and dermal reactions for isomers halogenated at the 2, 3 and 7 positions. They point out that similar structure-activity relationships are shown in tests on the induction of aryl hydrocarbon hydroxylase (AHH) in rat hepatoma cell cultures and AHH induction using rat lung and liver tissue, as well as in tests to measure the affinity of isomers to bind to receptors.

2. *Exposure.* Petitioners cite studies showing that the isomers of concern that have been tested tend to have chemical characteristics that indicate they are highly persistent under normal environmental conditions and there is little biological degradation at the microbial level. According to Petitioners, further studies show that human exposure to these chemicals may be enhanced by the ability of the isomers of concern to accumulate and be stored in body fat and to accumulate in the food chain, eventually to be ingested by humans.

The Petitioners also cite a number of sources of potential PHDD and PHDF formation, release, and exposure. These sources include production of chlorinated and brominated phenols and benzenes; incomplete combustion of chlorinated and brominated phenols and benzines and their derivatives; and incomplete combustion of a number of other materials, including polychlorinated biphenyls, phenoxy-herbicides, pentachlorophenol-treated wood and certain chlorinated polymers and plastics. Products containing halogenated phenols or benzenes and products produced from processes using halogenated phenols or banzenes as intermediates may contain PHDDs and PHDFs. Chlorinated phenols continue to be used directly as fungicides, flea repellants, wood preservatives, antiseptics, disinfectants, antigumming agents in gasoline, and paint removers. Wastes from production of any of the above products may also be contaminated with PHDDs and PHDFs.

3. *Determination of Regulatory Limits.* In order to develop the limits on concentrations and emissions proposed in their petition, Petitioners examined the published toxicological and epidemiological literature on the chemicals of concern. They list several hazard assessments of PCDDs, mostly of 2, 3, 7, 8-TCDD, performed by various government agencies in the U.S. and in other countries. The studies were performed by the Centers for Disease Control (CDC), U.S. EPA, the National Research Council of Canada, the New York State Department of Health, the Netherlands, and the Ontario Ministry of Labor. Based on these studies, the Petitioners developed the regulatory levels described below.

The Petitioners base their proposed level of 0.1 ppb PHDDs and PHDFs in products on two considerations:

a. CDC established a guideline of 1 ppb TCDD in residential soil. The Petitioners assert that exposure to PHDDs and PHDFs in consumer products is likely to be more extensive than exposure to PHDDs and PHDFs in soil and dust since consumer products are intended for direct contact. Consequently, a limit of 0.1 ppb of PHDDs and PHDFs in products, one-tenth of the CDC guideline, is appropriate.

b. An assessment of exposure to hexachlorophene indicates that a pregnant woman dermally exposed to hexachlorophene containing a concentration of 0.1 ppb of 2,3,7,8-TCDD could absorb 0.005 pg/kg (based on a 60-kg body weight) during a protracted labor and delivery. The Petitioners estimate that this one-time exposure to a 0.005 pg/kg does is two-hundredths of the acceptable or virtually safe daily dose. The Petitioners consider this an appropriate margin of safety to protect human health.

The Petitioners directly cite the CDC risk assessment for 2,3,7,8-TCDD in residential soil to support their request to limit the aggregate concentration of the specified PHDDs and PHDFs in solid waste streams to 1 ppb. Petitioners base this limit on the fact that the 1 ppb level has established a guideline used widely by EPA in cleanup efforts for dioxin in soil. Petitioners argue that it is reasonable to base programs of hazardous waste management on the same guideline that covers cleanup. They request that net detectable wastewater discharges of the specified isomers be prohibited under the CWA based on the propensity of the specified isomers to bioaccumulate.

Petitioners request EPA set acceptable ambient air concentrations at 0.1 parts per trillion (ppt) (by volume). This request is based on Petitioners' perception that several authorities have concluded that an acceptable workplace concentration is 1 part per quadrillion. Petitioners consider that a standard one hundred times greater (0.1 ppt) is reasonable, based on the assumption that dispersion and other processes will reduce exposure at the site of receptors near the sources which emit dioxins. The Petitioners, however, express concern that even at the limits suggested, there may be problems with accumulation of PHDDs and PHDFs in soil and water near the point of such releases and therefore request a program of environment and stack monitoring.

4. *Costs of Reaching the Limits.* The Petitioners assert that the expense of removing the specified isomers from

products probably will not be prohibitive, and point to industry experience in reducing TCDD concentrations in 2,4,5-T as showing that reduction is feasible. While admitting that a regulation limiting the concentration of the specified isomers to 0.1 ppb may affect the commercial viability of some products, the Petitioners state that adequate substitutes are available in most cases and that any adverse effects on the industry are outweighed by the extreme hazards posed by the specified isomers.

D. Statutory Requirements

1. *Description of the Statute.* Section 21 of TSCA provides that any person may petition EPA to initiate a proceeding for the issuance of rules under section 4 (rules requiring chemical testing), 6 (substantive regulations), or 8 (information gathering rules) of TSCA, or for the issuance or orders under section 5(e) (orders affecting new chemicals) or 6(b)(2) (orders affecting quality control procedures). Within 90 days after the petition is filed EPA shall either grant or deny the petition.

If EPA grants the petition, the Agency "shall promptly commence an appropriate proceeding" in accordance with section 4, 5, 6 or 8. If EPA denies the petition, the denial and the reasons therefore shall be published in the **Federal Register.**

If EPA denies the petition, or fails to grant or deny the petition within 90 days of filing, the Petitioners may commence a civil action in Federal district court to compel the Agency to initiate a rulemaking proceeding as requested in the petition. This suit must be filed within 60 days of the denial, or within 60 days of expiration of the 90-day period if the Agency fails to grant or deny the petition.

In order to prevail in his or her suit, a petitioner must demonstrate to the satisfaction of the court by a preponderance of the evidence that one of two criteria apply. In the case of a request for a proceeding under section 6 or 8, the petitioner must show that a rule or order is "* * * necessary to protect health or the environment against an unreasonable risk of injury. * * *" In the case of a petition to initiate a proceeding for a rule under section 4 of TSCA or an order under section 5(e), the petitioner must show that information is insufficient to permit reasoned evaluation of chemical risks *and* that in the absence of such information the chemical may present an unreasonable risk, *or* may enter the environment in substantial quantities, *or* may cause significant or substantial human exposure.

If the petitioner prevails, the court shall order EPA to initiate the action requested. The court may permit EPA to defer action on a particular chemical, until such time as the court prescribes, if the Agency is pursuing action against other, more serious, risks and there are insufficient resources available to the Agency to take the action requested by the petitioner.

2. *EPA's Obligations under TSCA Section 21.* EPA's only mandatory legal obligation under section 21 is to respond to the petition within 90 days. The decision to grant or deny is within EPA's discretion, as is the timing of EPA actions and the content of any rules that may be issued subsequent to a grant.

EPA may grant a petition without committing to the details requested and without committing to a particular schedule. EPA will decide on the details and scheduling during subsequent stages of the proceeding. The timing of Agency action need not conform precisely to the petitioner's request, nor need the Agency regulate the chemical at concentration levels requested by petitioner. Further, if EPA believes there are good reasons to defer action on the chemicals subject to a section 21 petition because the Agency has higher priority risks and insufficient resources, the Agency may grant the petition and commit to data gathering by informal or non-regulatory means, or to an extended schedule for regulation.

If EPA grants a petition, the action that constitutes "initiation" of an appropriate proceeding will vary depending on the circumstances of a particular case. Generally, the action will be a commitment by EPA to begin an official proceeding that is designed to resolve the issues raised by the petition. A proceeding may be initiated by beginning a regulatory investigation, by holding public hearings or by issuing an Advance Notice of Proposed Rulemaking. In extreme cases a proceeding may be initiated by a proposed rule. Further, initiating a proceeding in response to a section 21 petition does not commit EPA to proposing a rule or to promulgating final regulations, since at any stage in the proceeding EPA may obtain information that may lead it to decide that it cannot make the appropriate regulatory determinations.

EPA may deny the petition for a rule under section 6 or 8 or an order under section 6(b)(2) if the petitioner fails to show that issuance of such a rule or order under TSCA is necessary to protect health or the environment. Such denial could be based on a determination that other statutes administered by the Agency could adequately resolve the problems presented by the petitioners. Of course, EPA is not precluded from denying the TSCA section 21 petition but dealing substantively with petitioner's concerns under other EPA statutes. Petitioners still have petitioning rights under the Administrative Procedure Act or any other statute.

EPA may deny a petition to issue a rule under section 4 or an order under section 5(e) if it determine that petitioners have failed to show that existing information is insufficient to evaluate a chemical and that the chemical either may present an unreasonable risk or may cause substantial human or environmental exposure or significant human exposure.

II. Response to Petition

A. Introduction

The Agency has reviewed the petition submitted by EDF and NWF and, as stated above, is granting only certain aspects. This should not be interpreted as meaning that the Agency is unconcerned about the environmental and public health issues raised in the petition. Rather, the Agency is solidly committed to fully protecting human health and the environment from adverse exposure to PHDDs, PHDFs, and other dioxin-like compounds. The denial of the Petitioners' requests is therefore based more on differences related to the means of achieving the goal than on the lack of a common goal. EPA believes that the combination of Agency actions outlined in this response addresses many, if not all, of the Petitioners' concerns.

EPA has long recognized the potential public health and environmental significance of 2,3,7,8-TCDD and a variety of compounds structurally related to it. This concern is clearly evidenced by the number of relevant Agency activities completed, planned, or underway. For example, EPA's National Dioxin Strategy (Ref. 6), which was published in December 1983, is a comprehensive scheme for handling issues related to dioxin contamination. While the Strategy primarily addresses problems associated with 2,3,7,8-TCDD contamination, it specifically calls for EPA to address other dioxins and dioxin-like compounds; EPA is doing so.

EPA's past efforts have focused on what the Agency believes are the major sources of PCDDs and PCDFs (2,4,5-trichlorophenol production and use, pentachlorophenol use, incineration, fires involving polychlorinated biphenyl (PCB) transformer fluid, and disposal sites). The activities outlined in this

response will allow the Agency to identify and regulate any other sources that require immediate attention in order to protect the public and the environment.

In evaluating the petition, EPA chose to focus first on the substantive issues of the requests, i.e., the environmental problems of apparent concern to the Petitioners. In so doing, the Agency assessed the technical feasibility of complying with the specific requests of the Petitioners. Where formal compliance was not feasible, the Agency determined appropriate steps for addressing the actual or potential problems of concern, giving available knowledge as well as EPA's other priorities which are described in the Annual Operating Guidance, the Regulatory Agenda and other Agency planning documents.

The results of this assessment are described in this response. In almost all cases, at least some steps are already being taken to assess or remedy the concerns of the Petitioners. Some of the activities coincide with the Petitioners' specific requests. However, the Agency feels it is necessary in many cases to take preliminary information gathering and analysis steps before decisions may be made regarding the best course of action to follow. These intermediate activities are necessary before EPA can make regulatory findings. As current activities are completed, decisions will be made on the need for further action and the appropriate ensuing steps.

B. The Response

The Agency hereby responds in the following way to the requests in the petition:

1. *TSCA Issues.* To the extent that the petition requests that EPA take actions affecting disposal of PHDDs and PHDFs under TSCA authority, the petition is denied. EPA believes action taken under its other statutes would be more appropriate to remedy problems cited by the petition. Accordingly, as indicated below and detailed in the body of this response, the Agency is engaged in or planning activities under its various other statutory authorities which will accomplish many of the same goals.

With respect to the petition's requests for TSCA section 4 information gathering rules and for the initiation of TSCA section 8 rules requiring the maintenance and submission of certain records on products subject to TSCA, the Administrator shall promptly commence an appropriate administrative proceeding.

The Petitioners' requests for product contamination limits, labeling, and determination on manufacturers' quality control procedures under TSCA section 6 are denied.

2. *Other Areas of Concern.* EPA is formally denying all requests for action that may be taken under other EPA-administered authorities. However, the Agency is undertaking the actions described below under those other acts.

i. *Federal Insecticide, Fungicide, and Rodenticide Act*—Relative to products subject to FIFRA, some of which are identified by the Petitiners as chemicals of concern, the Agency has already taken some regulatory actions to limit human and environmental exposure to PHDDs and structurally similar conteminants.

The Agency is using its authority under FIFRA section 3 to obtain the necessary information on both new and old pesticides, to determine whether regulatory action is warranted.

In addition, the Agency is using the mechanisms provided under FIFRA sections 3, 7, and 17 to monitor new uses, production, and importation of pesticide products of concern, including brominated compounds.

ii. *Contaminated Waste Disposal*—The Agency recently completed action to list certain PCDD- and PCDF-containing wastes as hazardous wastes regardless of the level of contamination. The listing includes specific requirements for incineration and other disposal of these wastes.

Action has been initiated to list as hazardous wastes certain other PHDD- and PHDF-containing wastes, including both brominated and chlorinated species.

As required by the Hazardous and Solid Waste Amendments of 1984, EPA will decide whether land disposal, including underground injection, of PHDD-containing wastes should be restricted.

EPA is developing operations guidelines for municipal waste combustors.

iii. *PHDD- and PHDF-Contaminated Water*—The Agency is currently attempting to generate or obtain the necessary information to determine whether to pursue actions under section 307 of the Clean Water Act to list PHDDs and PHDFs or to establish discharge prohibitions. This information is being developed as part of the National Dioxin Study.

EPA has already taken a number of regulatory actions to reduce surface water discharges of PHDDs and PHDFs. Information from the National Dioxin Study and other sources will be used to determine whether additional actions, including industry-wide best management practice requirements, are warranted.

The Agency has also issued an Ambient Water Quality Criteria Document for 2,3,7,8-TCDD, and a criteria document for 2,3,7,8-TCDF is expected in 1986. Based on additional data which are currently being developed, the Agency will determine the need for additional criteria documents.

EPA's existing ocean dumping regulations generally prohibit the dumping of wastes containing organohalogen compounds unless they are present only as trace contaminants or rapidly rendered harmless of disposal. The regulations utilize bicassay techniques to determine if such compounds are present in more than trace amounts. The Agency is currently undertaking a comprehensive review of the existing regulations to determine if amendments to the regulations are appropriate in light of program experience. Among the areas to be considered will be refinements to exiting bioassay techniques. Any resulting amendment will be issued in proposed form for public comment.

The Agency is reviewing various research techniques for monitoring PHDD and PHDF contamination in water, including some suggested by the Petitioners, in order to determine their applicability and value in a regulatory process.

iv. *Air Emissions of PHDDs and PHDFs*—The Agency is currently evaluating the need to regulate airborne emissions of PHDDs under section 112 of the Clean Air Act, and plans to render a decision in early FY'86. Dibenzofurans have not yet entered a section 112 schedule.

Although brominated dioxins and furans are not now scheduled for CAA section 112 assessment, the Agency will continue to monitor the available information to determine the need for action in this area.

Research on emissions from municipal and hazardous waste incinerators is providing data which will be used to determine the need for future regulatory action. Based on the data available to date, the Agency has concluded that TCDD emissions from well-operated municipal waste incinerators do not pose a public health problem.

Research and assessment activities imposed by the 1984 RCRA Amendments will also provide information needed to assess the need for actions on emissions from resource recovery facilities burning municipal wastes beyond the operations guidelines noted above.

Information developed under Tier 4 of the National Dioxin Study will allow the

Agency to identify and evaluate dioxin and furan emissions from sources other than municipal and hazardous waste incinerators.

v. *Related Research Activities*—The Agency has developed or is in the process of developing several health assessment documents for some of the specified PHDDs and PHDFs in response to requests from several program offices. Documents to support RCRA listings of the brominated isomers are scheduled for completion in 1985.

The Agency is engaged in an extensive number of research projects designed to evaluate the formation, toxicity, environmental fate, destruction, and measurement of PCDDs and PCDFs. Further research on the brominated compounds will be considered.

The Agency actively monitors relevant ongoing research at other government agencies, and in the private sector throughout the world, in addition to coordinating certain specific research efforts with other government agencies.

EPA's detailed reasoning for this response is explained in the remainder of this document.

III. Discussion of Isomers, Contamination Limits, Time Frames and Products Identified in Petition

Petitioners have raised for EPA's consideration some general issues concerning the regulation of PHDDs and PHDFs. In addition, Petitioners have also made specific suggestions about how EPA might carry out any subsequent rulemaking, including the identification of isomers of concern, the specification of across-the-board contaminant limits, the request for specific dates for promulgations of rules, and the specification of products of concern. It is EPA's view that these specific suggestions relate to the timing and content of any regulation that might be issued and that it is premature to address these details at this time. If EPA grants a section 21 petition, its only obligation is to "commence" a proceeding. There is no requirement in granting the petition to commit to the timing or content of the rule. EPA is granting the petition in part to consider action under TSCA and is taking action at its own discretion under other statutes while formally denying the TSCA petition. The timing and content of the various rules discussed in this response will be considered by EPA in the individual proceedings. All Agency regulatory, investigatory and research activities on PHDDs and PHDFs will of course continue to be closely coordinated.

As a matter of information, EPA's preliminary assessment of these general issues is presented here rather than piecemeal throughout the response; specific future decisions will of course vary for statutory and other reasons.

1. *Specification of PHDDs and PHDFs of Concern.* The Petitioners assert that "* * * there is sufficient basis for regulatory decisionmaking concerning a generic class of dioxins and dibenzofurans * * *", pointing specifically to "those which are brominated and/or chlorinated (that is, halogenation by chlorine or bromine or any mixture thereof) at the following positions: 2,3,7,8; 2,3,6,7,8; 1,2,3,7,8; 2,3,7,8,9; 1,2,3,6,7,8; 1,2,3,7,8,9; or 1,2,3,6,7,8,9." The Petitioners' expressed concern about brominated, as well as chlorinated, dibenzo-*p*-dioxins and dibenzofurans, is based on the desire to forestall future contamination, should manufacturers switch from chlorinated to brominated compounds as a result of EPA's ongoing regulation of the chlorinated CDDs and CDFs.

As acknowledged in the petition, over the last several years the Agency has exerted considerable efforts in its activities related to 2,3,7,8-TCDD. In addition, over the last year EPA has focused considerable attention on a group of "other dioxins". EPA has, in some respects, been moving on a broader front than that proposed by the Petitioners, e.g., taking action on homologous classes of isomers (TCDDs, HxCDDs, etc.) rather than just the specified isomers of concern. (See, for example, the Air Emissions discussion in unit V.D.) Further, EPA's deliberations have gone beyond PHDDs and PHDFs to other structurally similar compounds. In other respects, however, EPA's focus has been more limited than that of the Petitioners. For example, only limited attention has been given to brominated materials, and no regulatory actions have been initiated on hepta-substituted contaminants.

The Agency is in agreement with a number of the points outlined in the petition dealing with the specified isomers. EPA agrees that the small amount of evidence available on the brominated species suggests that they are likely to possess toxic properties comparable to their chlorinated analogues. Hence, EPA anticipates increased attention on these species, particularly in the toxic substances, pesticides, and hazardous waste programs, although the Agency does note that there is some reason to believe that brominated substitutes might be both more costly to produce and less effective in application. Second, the as yet limited evidence shows that PHDDs and PHDFs which are substituted in the 2,3,7 and 8 positions are likely to possess unusually potent toxic properties and hence deserve priority attention (Ref. 1). Third, scientific opinion, supported by limited evidence, points to a strong structure-activity correlation within the PCDD series; correlation within the PCDF series is less well-established. Structure-activity contentions on the toxicity of PBDDs/PBDFs are even less certain.

On the other hand, EPA's views on the appropriate isomers for regulation vary from those of the Petitioners in several areas. First, as indicated in Table 1, the Agency is currently focusing on a slightly different group of "isomers of concern". Table 1 also points out in certain instances a different scientific nomenclature used by EPA for these isomers.

EPA's primary isomers of concern include: 1,2,3,4,7,8-HxCDD, 1,2,3,4,7,8-HxCDF and 2,3,4,6,7,8-HxCDF and their brominated analogues. Not included by EPA are 1,2,3,4,7,8,9-HpCDD and HpCDF or their brominated analogues.

TABLE 1 -- HALOGENATED ISOMERS OF PRIMARY CONCERN TO PETITIONERS AND EPA

	PHDDs		PHDFs	
Homologue	Petitioners	EPA	Petitioners	EPA
Tetra-	2,3,7,8	Agree	2,3,7,8	Agree
Penta-	1,2,3,7,8	Agree	1,2,3,7,8	Agree
	2,3,6,7,8	Same as 1,2,3,7,8	2,3,6,7,8	Should be 2,3,4,7,8
	2,3,7,8,9	Same as 1,2,3,7,8	2,3,7,8,9	Same as 1,2,3,7,8
Hexa-	1,2,3,6,7,8	Agree	1,2,3,6,7,8	Agree
	1,2,3,7,8,9	Agree	1,2,3,7,8,9	Agree
	No comment	1,2,3,4,7,8	No comment	1,2,3,4,7,8
			No comment	2,3,4,6,7,8
Hepta-	1,2,3,6,7,8,9	Should be 1,2,3,4,7,8,9; not of primary concern in all media	1,2,3,6,7,8,9	Should be 1,2,3,4,7,8,9; not of primary concern in all media

The limited evidence available indicates that the hepta-substituted species are considerably less toxic than the tetra-, penta-, and hexa-substituted isomers. Therefore, the Agency is not pursuing the hepta-substituted species as vigorously as some others at the present time. However, EPA is aware of the relatively large amounts of chlorinated hepta-substituted isomers in emissions from combustion sources. EPA is also aware of reports of concentrations of hepta-substituted isomers in human tissue. EPA is assessing emissions of hepta-substituted isomers as part of the Agency's combustion source analyses under the National Dioxin Strategy (See unit VI). The Agency is continually assessing toxicoloy, emiasions and exposure data as they become available, and will modify this position if it becomes necessary to do so.

Second, EPA believes that in some situations control by homologous class may make more sense than control by specific isomer or by a category consisting of isomers of concern as specified in the petition even though the toxicity of the individual isomers in the homologous class varies. For example, in the "dioxins" listing under RCRA, the Agency took action, based on limited laboratory data supplemented by a strong structure activity relationship (SAR), to control TCDDs, PeCDDs, and HxCDDs as homologous classes.

2. *Specification of Contamination Limits.* The petition requests that generic concentration limits for PHDDs and PHDFs in products, wastes, and air emissions be established. If and when levels are set by EPA, they will be based on all the factors required to be considered in the regulatory process, not only those specific arguments set out in the petition. EPA has, however, some specific problems with respect to the basis used by the Petitioners for their requests.

For example, the risk analyses listed by the Petitioners are of only limited use to EPA in evaluating the requested regulatory actions because they are not always easily transferable to different exposure situations. The Petitioners use the CDC risk assessment for 2,3,7,8-TCDD in soils as the basis for the requested limit of 0.1 ppb in "products". The CDC exposure assessment postulated a child's easy access to 2,3,7,8-TCDD contaminated soil, where, with the usual hand-to-mouth activity of a young child, he or she could ingest 1–10 grams of soil during play each day. This exposure assessment therefore should not be generalized to exposure situations for all "products", be they consumer products, industrial chemicals

or whatever else, where the nature, duration, etc. of the exposures are different.

In addition, the risk assessment presented by the Petitioners implicitly assumes that all of the specified PHDDs and PHDFs are as toxic as 2,3,7,8-TCDD. Most of the available evidence and scientific opinion suggest that there are significant differences in the toxicity of the various PHDDs and PHDFs when they are compared to each other. EPA anticipates considering such differences in actions it undertakes. One approach to recognizing differences in toxicities is a weighting scheme similar to that in "The Health Hazard Assessment for Chlorinated Dioxins and Dibenzofurans other than 2,3,7,8-TCDD" (Ref. 1) to characterize the hazards (inherent toxicity) related to other isomers of concern.

In addition, the Agency is exploring short-term assays (e.g., an AAH bioassay) as means of determining more directly the toxicity of a complex mixture relative to the toxicity of 2,3,7,8-TCDD.

Thus, while EPA has identified problems with the Petitioners' request for the generic application of their specified contamination limits, the Agency is seeking ways to efficiently deal with isomers of concern.

3. *Specification of Schedules for Regulatory Actions.* Time frames for regulatory actions are determined by a myriad of factors including the availability of information, required regulatory procedures, and competing Agency priorities. The Petitioners, without providing specific reasons, have in many cases requested regulatory or other action in time frames that would not be achievable, primarily because the schedules requested do not take into account the time required to perform the various steps required in the regulatory process. Generally a rulemaking includes the following steps: Information collection, analyses, regulation development and proposal, review of public comments, and then final preparation and promulgation.

4. *Specification of Products of Concern.* The Petitioners have identified a number of chemicals of concern. EPA will develop its own list of products and other sources of concern (pesticides, wastes, effluents and combustion sources), based on all information available to the Agency, including that provided by the Petitioners.

IV. Petitioners' Requests Under TSCA

A. Summary of Agency Response to TSCA Requests

EPA believes that the best approach under TSCA to protect the public health and the environment from risks associated with PHDDs and PHDFs in chemicals and industrial effluents is to initiate an orderly program to collect information using the authority of sections 4 and 8 of TSCA, if the appropriate findings can be made. This belief coincides with some of the Petitioners' requests. The petition requests that EPA issue reporting and recordkeeping requirements under section 8 of TSCA, and that EPA issue rules under section 4 of TSCA if it decides that action under section 6 cannot be taken due to lack of data or experience with regard to the risks presented by the isomers of concern. Accordingly, and as further explained below, EPA is granting the petition by commencing administrative proceedings to determine whether findings sufficient to support initiation of rulemaking proceedings under section 4 and/or 8 may be made. EPA is denying Petitioners' requests to issue rules under section 6 of TSCA because the Agency does not believe sufficient information exists to issue such rules. However, the Agency will consider issuing section 6 rules when sufficient data are obtained.

In its information gathering under TSCA, EPA intends to focus on chemicals produced by processes which are known or believed to generate PHDDs and PHDFs. In some cases, EPA may treat groups of chemicals generically. Chemicals might be grouped by contaminant (for example, all chemicals containing 2,3,7,8-TCDD could be treated as a class), by similar manufacturing processes and use patterns, by similar physical-chemical properties, or by other appropriate criteria. How the selected chemicals are treated will be decided during the information-gathering process. EPA intends to commence administrative proceedings to develop proposed rules under section 4 of TSCA to require manufacturers to analyze these chemicals to determine concentrations of PHDDs and PHDFs. EPA is also considering a proposed rule under section 8 of TSCA requiring submission of existing information on the selected chemicals. Through this program, EPA will obtain the data necessary to identify major sources of PHDD and PHDF contamination and to decide on appropriate measures under TSCA, if any, to control PHDDs and PHDFs at their sources before they become distributed in commerce.

B. Agency's Explanation for Denying the Request To Issue Rules Under Section 6 of TSCA

To take action under section 6 of TSCA, EPA must find that there is a reasonable basis to conclude that a chemical presents an unreasonable risk of injury to health or the environment. The finding of unreasonable risk is an administrative judgment under which EPA determines that the reduction of health or environmental risk resulting from a regulation outweighs the cost to society of regulating. Determining whether a risk is unreasonable under section 6 of TSCA involves balancing the probability that harm may occur from a chemical and the magnitude and severity of that harm, against the effect on society, including economic effects, of placing regulatory restrictions on that chemical. Specifically, TSCA section 6(c) requires that the following be considered:

i. The effects of the chemical of concern on human health and the environment;

ii. The magnitude of exposure of these chemicals to humans and the environment;

iii. The benefits of the chemicals for various uses and the availability of substitutes for such uses;

iv. The economic consequences of the rule after considering the effect upon the national economy, small business, technological innovation, the environment, and public health. In summary, to decide whether a chemical presents an unreasonable risk, EPA must consider evidence on chemical toxicity and exposure to determine the risk, and then weigh that evidence against the projected costs of regulation. If EPA decides that the risks outweigh the costs, the risks are unreasonable.

EPA has decided that it lacks critical information to decide whether all of the isomers of concern present an unreasonable risk. First, EPA must examine the extent to which it can treat all isomers of concern generically for purposes of toxicity. Second, EPA must have reasonable evidence of the current concentrations of the isomers of concern in contaminated chemicals. Third, EPA must assess the incremental risk reduction afforded to exposed groups such as employees and consumers by alternative limits on PHDD and PHDF concentrations. Finally, EPA must estimate the economic and social costs that could result from reducing the permissible concentrations of PHDDs and PHDFs to the various alternative levels.

An unreasonable risk finding requires more than a determination by the Agency that a particular level of chemical contamination is acceptable. Rather, to determine whether a risk is unreasonable, EPA must examine the reduction in risk that will result from lowering current levels to various alternatives and the cost that will be incurred in each case. Only then can EPA decide whether risk reduction outweighs the cost of regulation. The gaps in toxicity, exposure and cost information are summarized below.

1. *Toxicity.* EPA recognizes that other PHDDs and PHDFs may cause toxic effects similar to those of the isomers already studied. The Agency is exploring methods of assessing the potency of other isomers by using structure-activity relationships, verified by experimental data obtained from short-term testing on each isomer of concern. EPA's ongoing and planned research activities in this area are described elsewhere in this response.

2. *Exposure Information.* Information on exposure to PHDDs and PHDFs present as contaminants in other chemicals also is limited. Data on concentrations of the specified isomers of concern in other chemicals have been found only for clorinated phenols, hexachlorophene, polychlorinated biphenyls (PCBs), and soot produced from pyrolysis of PCBs and chlorinated benzenes (Refs. 3, 5, 8, 10, 11). For most of these chemicals the data are very limited.

Exposure data for PHDDs and PHDFs must also be collected to analyze alternative regulatory levels to decide which would be acceptable. EPA has a number of factors to consider in this analysis. The three main types of exposure to industrial chemicals are occupational exposure, exposure to chemicals after they are incorporated into consumer products, and exposure when the chemicals are released to the environment through emissions to air, water, and soil, chiefly from industrial sites and disposal sites. In order to assess exposure associated with PHDD and PHDF contamination effectively, EPA must consider, among other things, the concentration of PHDDs and PHDFs in the product and waste streams, the partitioning of PHDDs and PHDFs among products and waste streams; the fate of the isomers during further industrial processing, industrial use, consumer use, and in effluents; and the potential for exposure to employees and consumers.

3. *Cost Information.* EPA cannot determine whether a risk is unreasonable unless it can make reasonable estimates of the costs that would be imposed in order to reduce that risk. Since EPA does not know current PHDD and PHDF levels in all products and cannot yet estimate risk reductions in all circumstances, the Agency cannot estimate the costs of reducing the risks in all situations. As additional data are obtained, EPA will consider costs and risk reduction in deciding what actions, if any, to take. For example, if contaminant levels are low and extremely high costs would be incurred to achieve small incremental risk reductions, the Agency might not find the risk unreasonable. On the other hand, an unreasonable risk may be found if relatively high levels may be reduced to acceptable levels at a low cost.

Information on the identities of contaminated products, methods and costs of reducing concentrations, available substitute products that do not contain PHDDs and PHDFs, and the technical feasibility of removing contaminants are critical to estimating the costs of a section 6 rule.

C. Agency's Plan To Collect Information Under Sections 4 and 8 of TSCA

EPA is initiating efforts to obtain any needed information on the levels of PHDDs and PHDFs in other chemicals by commencing administrative proceedings to determine whether findings sufficient to support initiation of rulemaking proceedings under section 4 and/or 8 may be made. Issuance of any needed proposed rule is tentatively planned for early 1986. Under section 8, where necessary, EPA will require submission of existing data on levels of PHDDs and PHDFs in chemicals of classes of chemicals of concern, as well as submission of the other information specified in sections 8 (a), (c), and (d) of TSCA. In addition, for those chemicals or classes of chemicals where the necessary findings can be made, EPA will issue rules under section 4 of TSCA, requiring testing to determine the presence of PHDDs and PHDFs. If the rule is promulgated in late 1986, EPA plans to begin receiving the data required by the testing rule in 1987.

Before EPA may issue these rules under TSCA, besides making the necessary statutory findings, EPA must identify the chemicals or classes of chemicals to be included in the TSCA program of information collection. Many of the products of concern listed in the petition have uses that fall under the jurisdiction of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA). Chemicals with a variety of uses may fall within the scope of all three statutes, with pesticide uses covered under FIFRA, use as a food, food additive, drug, cosmetic, or medical device covered under FFDCA, and most other uses covered under TSCA.

EPA has determined that raw materials, intermediates, and nonpesticidal inert ingredients produced or used in the manufacture of pesticides are substances that may be regulated under TSCA; they come within the jurisdiction of FIFRA when they become components of pesticide products. Thus, for example, 2,4,5-trichlorophenol would be regulated under FIFRA when manufactured for direct use as an antifungal agent and under TSCA when manufactured solely for use as an intermediate in the production of herbicides.

EPA has also determined that since the FDA considers intermediates or catalysts to be components of a food, food additive, drug, cosmetic, or medical device under FDA, chemicals used for these purposes are not regulated under TSCA. As soon as the FDA regulates a product, its manufacture, processing, or distribution in commerce solely for an FDA-regulated use is excluded from the jurisdiction of TSCA.

The chemicals on the Petitioners' list that full under the jurisdication of TSCA include the halogenated benzenes, some of the halogenated phenols, polybromobisphenol-A, polychlorobisphenol-A, and any of the other chemicals on the list that have uses outside of the jurisdiction of FIFRA and FFDCA.

EPA will focus on chemicals produced by processes which are known or believed to generate PHDDs and PHDFs as by-products. In addition to chemicals already identified as containing cholorinated or brominated dioxins (Ref. 5), EPA will consider chemicals likely to become contaminated with chlorinated or brominated dibenzofurans generated during the production process. EPA will also consider potential human exposure and exposure to environmental biota resulting from manufacture, use and disposal of a chemical in determining which chemicals or classes of chemicals should be included in section 4 and 8 rules, if issued.

Once EPA has identified a contaminated chemical and obtained data on the concentrations of PHDDs and PHDFs in the chemical, various actions may be taken. EPA may begin proceedings to issue a rule under TSCA, may consider whether to refer the chemical to another federal agency for action, may decide that additional information collection is required, or may decide that on further action is necessary. After evaluating both the

data subimtted under sections 4 and 8 of TSCA and any other available information, EPA will decide if additional actions are needed.

In a meeting following submission of their petition, the Petitioners expressed the concern that a rule limiting the concentration of PHDDs and PHDFs in products could result in increased emissions to air and water, if the PHDDs and PHDFs are generated and then removed from the product at some point in the process. To avoid creating new releases of PHDDs and PHDFs to the environment, the Petitioners have requested that all air and water emissions which contain PHDDs and PHDFs be channeled to solid waste as part of any rule limiting concentrations of PHDDs and PHDFs in a given product. EPA believes that emissions of the speicified isomers of concern from industrial processes can be more effectively controlled under RCRA, the Clean Air Act, and the Clean Water Act than under TSCA, as requested. However, if a rule limiting concentrations of the specified isomers in products is proposed, EPA wil consider a rule such as that requested by the Petitioners under section 6(a)(6), if it is necessary to prevent an unreasonable risk of injury to health or to the environment.

D. Other Actions Under TSCA

EPA's Office of Toxic Substances is currently taking actions under sections 5 and 6 of TSCA that involve PHDDs and PHDFs. Under section 5 of TSCA, manufacturers and importers of new chemicals (that is, chemicals not on the TSCA inventory) are required to file a notice with the Agency before commencing manufacture or import. EPA routinely identifies new chemicals that may contain chlorinated or brominated dioxins or dibenzofurans. These chemicals are closely scrutinized and their manufacture, processing, use, and disposal will be regulated where appropriate. Under TSCA section 6 EPA has proposed a rule intended to reduce PCDF and PCDD formation and to prevent the release and spread of smoke containing PCBs, PCDDs, during fires involving PCB-transformer fluid.

V. Petitioner's Requests Addressed Under Other Authorities

EPA is formally denying Petitioner's requests under TSCA that can be dealt with under other EPA administered acts because the Agency believes that those other acts can adequately deal with the concerns expressed by Petitioners. Therefore, rules under TSCA are not necessary to protect against risks to health and the environment. This section explains how those acts can deal with Petitioners' concerns and describes the actions EPA is planning under those other acts.

A. Pesticides

Petitioners have requested that EPA limit specified PCDDs and PCDFs in certain products including specific chemicals listed, to 0.1 ppb, under TSCA section 6(a). Specifically, EPA is requested to complete a report on the products requiring regulation, and on alternative ways of producing certain products; to prohibit the distribution in commerce of products containing the specified PCDDs and PCDFs in concentrations greater than 0.1 ppb; to require manufacturers to conduct periodic testing and maintain records; and to require that any product which still contains the specified isomers in an amount greater than 0.01 ppb to bear a warning lable.

While the Petitioners have cast their requests in terms of TSCA regulation, many of the relevant products, such as pentachlorphenol and 2,4-D, are used primarily or exclusively as pesticides. These pesticide uses fall within the jurisdiction of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Under TSCA section 3, pesticides are specifically exempt from TSCA authority, although the non-pesticide uses could be covered by TSCA. Thus, the requests related to pesticides are denied. However, the Agency has a number or relevant activities underway, and plans to use its authority under FIFRA to address many of the Petitioners' concerns.

Additional actions to fully satisfy the requests within the specified time frames are not considered feasible. Under FIFRA, the Agency must consider the risks and benefits of particular pesticides and uses in order to take regulatory actions, such as limiting the contaminant levels in those products. The Agency cannot impose an across-the-board contaminant limit on all relevant registered pesticides. Instead, it may determine a target contaminant level of concern for each contaminant, request product-specific data about levels of the contaminant in registered products or potential new registrations, and do a risk/benefit assessment if contaminant levels exceed the target level. The Agency does not presently have sufficient detailed information to regulate all of the PHDDs and PHDFs occurring in pesticide products as requested. However, there is a process to obtain data that will enable the Agency to initiate appropriate regulatory activity if needed.

The Agency agrees that certain PHDDs and PHDFs may deserve special regulatory attention and it has acted in the past to regulate or initiate regulatory action on a number of pesticides containing 2,3,7,8-TCDD and other chlorinated dibenzo-T3pT1-dioxins. Under FIFRA, the Agency has the authority to limit contaminants in pesticide products to levels that will ensure they do not pose the risk of unreasonable adverse effects to man or the environment. Such determinations concerning the "reasonableness" or risks posed by pesticides require full evaluation and balancing of risks and benefits, on a chemical- and use-specific basis. It is not legally possible under FIFRA to set an across-the-board contaminant limit without performing a case-by-case risk/benefit analysis for the pesticides affected.

At present, the Agency does not have sufficient data on the levels of PHDDs and PHDFs in registered pesticide products, the risks of those PHDDs and PHDFs, or exposures to the U.S. populations, or to segments of the population such as pesticide handlers and applicators to regulate all of the pesticides listed, and/or others, under FIFRA. However, as detailed below, EPA is in the proces of obtaining additional product chemistry and other data on registered pesticides that will supplement the Agency's current data base and increase its knowledge about the PHDDs and PHDFs in those pesticides, thus laying the groundwork for future regulation where warranted. For new chemicals, the new Product Chemistry Data Requirements will help ensure that PHDDs and PHDFs occuring in potential new pesticide products are fully scrutinized before those new products are registered.

Finally, FIFRA provides the Agency with mechanisms to monitor new uses, production, changes in production, and importation of pesticides. Using the production and importation data reported pursuant to FIFRA sections 7 and 17, combined with information about new registrations and uses reported under FIFRA section 3, the Agency can monitor pesticide products of concern, including brominated analogues of compounds currently more commonly produced in ther chlorinated form.

1. *Past Actions under FIFRA.* The Agency has acted to regulate or initiate regulatory action on several major pesticides which, based on available information, appeared to pose unreasonable risks, in part because of their contamination with dioxins. Many of these products are included in the list

of 19 chemicals for which regulatory action is requested by Petitioners (see pp. 49–50 of petition) based on Petitioners' finding that the chemicals contain or are likely to contain the PHDD or PHDF isomers specified. The current regulatory status of each of these 19 chemicals as pesticides regulated under FIFRA is summarized below.

i. *Pentachlorophenol*—In July 1984, the Agency issued a notice of intent to cancel registrations for pesticides containing pentachlorophenol and/or its salts unless labeling was amended. EPA restricted wood preservative use to certified applicators; added protective clothing requirements and a teratogenicity hazard label warning; required use of closed systems for mixing powder formulations; prohibited application in homes and to most wood intented for indoor use; prohibited use of pentachlorophenol-treated logs for construction of log homes; and required a limit on the HxCDD contaminant to 15 ppm immediately and to 1 ppm or less by early 1986 with no increase in PCDFs. (No 2,3,7,8-TCDD has been detected in pentachlorophenol or will be allowed in pesticide products containing that chemical.) This Agency action has been challenged and administrative proceedings are underway. EPA has also issued a data call-in for non-chronic data such as mutagenicity, metabolism and air monitoring studies. In late 1984, the Agency also initiated actions to cancel virtually all registrations of pentachlorophenol for non-wood preservative uses.

ii. *Pentabromophenol*—[not a pesticide]

iii. *Polybromobisphenol-A*—[not a pesticide]

iv. *Polychlorobisphenol-A*—[not a pesticide]

v. *Halogenated Phenols (2,4,5)*—include some pesticides such as:

2,4,5-Trichlorophenol—The basic chemical that is used to make 2,4,5-T, silvex, hexachlorophene, ronnel, and erbon is a known source of 2,3,7,8-TCDD; however, there is some indication that levels may have been reduced by new technologies. The chemical is still registered for use as an active ingredient in some disinfectant products. EPA will soon call in additional data on 2,3,7,8-TCDD content.

vi. *Halogenated benzenes (2,4,5)*—include some pesticides such as:

BHC—no registrations remaining; all registered products have either been voluntarily cancelled or lindane was substituted for BHC non-gamma isomers.

HCB—all registrations voluntarily cancelled.

PCNB—Special review (1977–1982) was terminated through negotiated agreement with registrants to reduce levels of HCB contaminant and make label changes to reduce exposure. Some uses were voluntarily cancelled. Exposure study for dusts and wettable powders, and a potato processing study was requested. Will follow up through data call-in this fiscal year.

vii. *Chloranil*—All registered pesticides (seed treatment fungicides) containing chloranil were voluntarily cancelled at the conclusion of an RPAR or special review in 1978.

viii. *2,4,-D*—EPA has reviewed available data and analyzed samples for dioxins. Although some of the samples tested were contaminated with dioxin, 2,3,7,8-TCDD was not detected in any of the samples. Information about the dioxins found in United States-produced 2,4-D is limited, but existing references indicate they are significantly less toxic than 2,3,7,8-TCDD. Based on our preliminary analyses, we believe that the concentrations of the dioxins found in 2,4-D do not pose a significant health hazard. We have required further studies on 2,4-D, some of which are still underway. A 3(c)(2)(B) data call-in was issued in August 1980 requesting a complete toxicology data base. Teratology, neurotoxicity, metabolism and acute toxicity tests have been submitted; some of these data are still under review. Oncogenicity and reproduction data are still outstanding.

ix. *Hexachlorophene*—A fungicide and disinfectant manufactured from 2,4,5-trichlorophenol, a known source of 2,3,7,8-TCDD. However, 2,3,7,8-TCDD has not been reported in hexachlorophene according to the limited sampling studies available. Some uses of hexachlorophene are registered as pesticides, others are regulated by FDA, depending on the intended site of use. Hexachlorophene for certain uses on cotton is required to contain no more than 0.1 ppm 2,3,7,8-TCDD. EPA has required the principal registrant of agricultural hexachlorophene products to provide further information on chemical composition and manufacturing processes designed to control dioxin levels.

x. *Nitrofen [TOK]*—Registrations were voluntarily cancelled in 1983.

xi. *Ronnel*—Registrations are still in effect; however, the sole producer ceased production in 1979. Formulators still have some existing stocks. However, EPA will soon be calling in product chemistry data to determine whether dioxins are present in ronnel.

xii. *Erbon*—Federal registrations were voluntarily cancelled in 1980. Only one intra-state registration remains in EPA's records, and it may no longer be active.

xiii. *MCPA [(4-chloro-o-tolyoxy) acetic acid]*—A registration standard was issued in 1982, and required additional oncogenticity, reproduction, mutagenicity, environmental fate and ecological effects studies.

xiv. *PCNB [pentachloronitrobenzene]*—(See item (vi), Halogenated benzenes (2,4,5).)

xv. *Isobac*—(A trade name for hexachlorophene. See item (ix))

xvi. *Fenoprop [Silvex]*—Like 2,4,5-T, most registrations have been suspended and/or cancelled. Initial decisions and orders to cancel remaining registrations and terminate proceedings have been issued in the cancellation proceedings begun to resolve registration status.

xvii. *Dichloroprop*—(No pesticide by this name—assume reference is to dichlorprop or Weedone, a 2,4-D-type herbicide.) Registered for noncrop uses only. Registrant has provided some chronic data, but at this time, no registrations for crop uses are pending. A data call-in letter is being prepared.

xviii. *Mecoprop [MCPP]*—A 2,4-D-type herbicide, registered for use on ornamental turf. Registrant has a crop-destruct permit and a pending experimental use permit/temporary tolerance proposal for small grains. A 3(c)(2)(B) letter has been sent under the ground water data call-in.

xix. *Bendiocrab [Ficam]*—A registered insecticide manufactured from 2,3-isopropylenedioxyphenol and methylisocyanate. Contains no chlorine. (By its chemical structure, bendiocrab should not contain dioxins unless they were part of the chemical stream.) A 3(c)(2)(B) letter has been sent under the ground water data call-in.

In addition to the 19 chemicals above, EPA has acted to regulate or is reviewing the following pesticides which also may contain 2,3,7,8-TCDD or other dioxin isomers.

i. *2,4,5-T (2,4,5-trichlorophenoxy acetic acid)*—Most registrations have been suspended and/or cancelled. Initial decisions and orders to cancel remaining registrations and terminate proceedings have been issued in the cancellation proceedings begun to resolve registration status.

ii. *Tetrachlorophenol*—Was not a part of the wood preservatives special review but is chemically and toxicologically similar to pentachlorophenol. EPA soon will call in both chronic toxicity data and information on product chemistry, contaminants, and manufacturing processes to determine what dioxins

occur in pesticides containing the chemical and at what levels.

iii. *Bromoxynil*—One of only several registered brominated pesticides which conceivably may contain PBDD's formed during the manufacturing process. A data call-in letter was sent in March 1983 requesting additional chronic toxicity and ground water data.

2. *Current and Planned Activities Under FIFRA—New Pesticides* To prevent dioxin and other contaminant problems in the future, the Agency is taking steps to ensure that the data needed to determine whether dioxins and furans or other impurities existing in pesticide products (and if so, at what levels) are available "up front", as initial registration decisions are made. The new Product Chemistry Data Requirements in the proposed revisions to FIFRA section 3 registration regulations, and in the final Part 158 data requirements for registration, require identification of starting materials and a detailed description of the manufacturing process. Identification and certification of limits of impurities in products are required at the 0.1 percent level, or even lower if the impurities are of toxicological significance. For example, if a manufacturing process appears likely to result in the formation of PHDDs or PHDFs, additional toxicology and exposure information may be considered. Risks may be assessed, and a limitation on the contaminant level in the pesticide may be set, or a related action taken. As discussed more fully below, where the Agency has not already acted EPA is currently determining generically what levels of PCDDs and PCDFs in pesticides are of toxicological significance. Through this decision, the Agency's current product chemistry data requirements will ensure that PCDDs, PCDFs and other potentially hazardous impurities are fully controlled from the outset.

3. *Old Pesticides* Through the pesticide reregistration program, the Agency is systematically reviewing existing pesticide registrations on a generic or chemical-by-chemical basis. Where particular risks are found to occur, the Agency will consider appropriate regulatory options ranging from use restrictions to complete banning.

Where the studies necessary for a reassessment of a pesticide's registration status are not available, under FIFRA section 3 the Agency is requesting performance and submission of those studies through the data call-in program. An industry-wide Product Chemistry and Confidential Statement of Formula Data Call-In (PC/CSF DCI) is being conducted so that the Agency may obtain data that will accurately describe the identity of registered pesticides and the impurities and/or contaminants that they may contain. Judgments concerning the risks of those impurities and by-products may then be made, and regulatory determinations reached.

The PC/CSF DCI, scheduled to begin in March 1985, is a readily available mechanism for gathering additional information on PCDDs and PCDFs in currently registered pesticide products. Consistent with the Part 158 data requirements, this program will require registrants to identify any contaminant that occurs in a technical ingredient at or above 0.1 percent by weight. The Agency can also require identification and certification of upper limits for lower level contaminants "if EPA determines the impurity is toxicologically significant" (40 CFR Part 158). The Agency must identify the level of analysis required. (The Agency can use its FIFRA authority to require the development of methods where none as yet exist, but must have a reasonable basis for believing that a risk is posed at that level in order to require this information.) "Impurity" can include, "if appropriate, each group of structurally similar impurities" (40 CFR Part 158).

The Agency will use the Product Chemistry DCI to identify a number of impurities in pesticide products, like PCDD and PCDF isomers. Initially, the Agency will require screening tests to identify total dioxin/furan content. Based on these initial results, more specific analysis may be required at specified levels below 0.1 percent by weight, when such specification can be justified. FIFRA section 3(c)(2)(B) letters will be sent to pesticide registrants in mid-March 1985. By mid-March 1986, when this data call-in is scheduled to be completed, the Agency will have received confidential statements of formula, product chemistry information including information on manufacturing processes, and analytical methods and results, as requested. In cases where the Agency has sufficient information concerning PCDDs and PCDFs of concern in pesticides, EPA may move forward and evaluate those pesticides in advance of the schedule established for completion of the Product Chemistry DCI. For example, the Agency currently is calling in needed product chemistry and chronic toxicity data on tetrachlorophenol, a chemical similar to pentachlorophenol, separately from the industry-wide PC DCI, and will evaluate the resulting new data as soon as they are received.

Once product chemistry data are received through the DCI, the Agency will evaluate these data in light of available exposure and toxicity information on the pesticides and contaminants. When the Agency learns that a product contains a PCDD or PCDF about which it has concern, it may use FIFRA section 3(c)(2)(B) again to obtain needed toxicology or residue chemistry studies. Risk assessments, special reviews, and/or reregistrations, may follow on a case-by-case basis, as appropriate. Several years may be required to complete these reviews and reach regulatory decisions on each of the pesticides involved.

B. Wastes

The Petitioners have requested that EPA stringently regulate all potential waste sources of the specified PHDDs and PHDFs under RCRA, SDWA, and the MPRSA. Specifically, EPA is requested to list all sources of the isomers of PCDDs and PCDFs as hazardous wastes; ban land disposal, ocean dumping and underground injection of all wastes containing the specified PHDDs and PHDFs, and require that all such wastes be incinerated; strengthen the incineration standard (for both land and at-sea incineration) for the listed wastes containing PHDDs and/or PHDFs to a Destruction and Removal Efficiency (DRE) of 99.9999 percent, and require continual or periodic verification to ensure that the standard is met.

1. *Listing Contaminated Wastes under RCRA.* The Agency has completed action on its April 4 proposal, the "Promulgation of Dioxin Listing", which lists certain chlorinated dioxin and dibenzofuran containing wastes as acute hazardous wastes. The following wastes were listed and are subject to regulation by this action:

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use of tri-, tetra-, or pentachlorophenol, or of intermediates used to produce their pesticide derivatives;

Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use of tetra-, penta-, or hexachlorobenzenes under alkaline conditions;

Waste (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use of tri- and tetrachlorophenols, or on equipment previously used for the manufacturing use of tetra-, penta-, or hexachlorobenzenes under alkaline conditions; and

Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds dervived from these chlorophenols.

In addition, this rulemaking subjects these wastes to the following special standards:

Management of these wastes to be restricted to fully permitted treatment, storage, and disposal facilities, except for tank and container storage facilities, enclosed waste piles, and surface impoundments where the wastewater treatment sludge is created in the impoundment as part of the plant's wastewater treatment system.

Treatment of these wastes is also allowed in interim status incinerators or thermal treatment units that have been certified by EPA's Assistant Administrator for Solid Waste and Emergency Response as meeting the incinerator technical standards;

Provision of secondary containment for these wastes by fully permitted tank and container storage facilities, a provision which was not requested in the petition;

Demonstration of these incinerators' ability to meet the 99.9999 percent destruction and removal efficiency; and

The requirement of a "waste management plan" in order for land disposal facilities (i.e., landfills, open waste piles, surface impoundments, and land treatment units) to be able to handle these wastes.

Under this final rule EPA also revoked the TSCA section 6(a) regulation that applies to the Vertac Chemical Corporation and that also requires that EPA be notified sixty days before TCDD contaminated wastes are disposed. The RCRA listing eliminated the need for the TSCA 6(a) rule.

EPA has not provided a threshold below which these wastes would not be considered acute hazardous wastes, e.g., 1 ppb as suggested in the petition. Should a generator of these wastes believe that the concentration of the dioxins and/or dibenzofurans is so low as to render them non-hazardous or non-acutely hazardous, it may petition EPA to delist its specific wastes on a case-by-case basis. (These wastes are also listed due to their chlorophenol content. Therefore, any petition that is submitted must address these toxicants as well. When evaluating a delisting petition the Administrator must also consider any other factors which he has a reasonable basis to believe could cause the waste to be a hazardous waste and provide notice and opportunity for public comment before granting or denying the petition [See 40 CFR 260.20 and 260.22.].) It should be noted, however, that the new RCRA amendments require the Agency to identify or list those hazardous wastes which contain certain constituents (such as carcinogens, mutagens, or teratogens) solely because of the presence of the constituents in such wastes at levels that are in excess of the levels which endanger human health (See section 222(b).) The Agency will consider listing wastes which contain the dioxins and dibenzofurans which have been identified as hazardous constituents in this way, i.e., wastes which contains these toxicants in quantities greater than a designated threshold are considered to be acute hazardous wastes.

2. *Regulation of Other Sources of Dioxins.* EPA is also required by the recently passed "Hazardous and Solid Waste Amendment of 1984" to list, within 12 months of enactment, all other dioxin and dibenzofuran-containing wastes including the brominated dioxine and dibenzofurans which the Agency believes are hazardous.

With the exception of wastes resulting from wood preserving processes using PCP, the RCRA "dioxin" regulation described above identified most sources of the CDDs and CDFs of concern of which the Agency is currently aware. The Agency, however, is in the process of investigating whether wastes from the use of PCP in wood preservation processes should also be listed as hazardous or acutely hazardous wastes, and whether the CDDs and CDFs should be added as constitutents of concern. In addition, the Agency has identified several other circumstances under which CDDs and CDFs may be generated. These circumstances are now being assessed in order to determine whether regulation of these wastes is needed.

Furthermore, the Agency is identifying and evaluating industrial synthetic processes that are expected to generate the brominated dioxins and-dibenzofurans of concern. An evaluation of these processes, and whether they were, or are currently in operation, should be completed by the spring of 1985. Others may be identified in the course of activities under the Dioxin Strategy. The Agency is also investigating the manufacture and use of brominated aromatic compounds to identify those processes that may generate BrDDs or BrDFs.

Wastes from these processes will be listed if data developed under the Office of Solid Waste's Industry Studies program show that such action is warranted. This effort is consistent with the Dioxin Strategy and the requirements of section 222 of the Hazardous and Solid Waste Amendments of 1984 (HSWA), which give the Agency 12 months from the date of enactment to list all other dioxin- and dibenzofuran-containing wastes.

3. *Banning Selected Disposal Options.* With respect to the banning of certain waste management prectices, on February 15, 1984, the Agency announced its intention to decide whether land disposal of dioxin-containing wastes should be restricted (49 FR 5854).

The RCRA statute gives EPA the authority to impose restrictions on the land disposal of dioxin-containing wastes. Moreover, the Hazardous and Solid Waste Amendments of 1984 direct the Agency to evaluate the need for restricting the disposal of CDD/CDF-containing wastes, such as those regulated by the RCRA "dioxin" regulation, within 24 months from enactment. (The Agency has 45 months to decide whether the listed dioxin-containing wastes should be restricted from underground injection.) The Agency intends to comply with these mandates within the time required, and to promulgate a ban on land disposal of these wastes if this is warranted. Discussion of the requested ocean dumping and underground injection bans are covered later in this response.

The Petitioners also requested that EPA require that all such wastes be incinerated. EPA believes that incineration is desirable because it can result in the almost total permanent destruction of hazardous material. However, EPA's approach has been to ensure that any disposal method that is used is environmentally protective, rather than to mandate a single method. This approach will encourage the development of innovative technologies. EPA believes that the Petitioners' request to require incineration of all waste containing CCDs/CDFs and BDDs/BDFs is overly restrictive and may preclude the active development and evaluation of other effective destruction, detoxification, or containment technologies for such wastes. EPA does not want to preclude options in addition to incineration for wastes containing CDDs and CDFs, assuming they are shown to be environmentally adequate. These could include, but are not limited to, other thermal destruction processes, chemical detoxification/destruction processes, and *in-situ* stabilization methods.

4. *Incineration of Wastes Containing Dioxins and Dibenzofurans.* The Agency agrees that, in view of the extreme toxicity of some of the CDDs and CDFs, it is prudent to limit the occurrence of these toxicants in incinerator emissions.

One way to accomplish this goal is to impose stringent controls on the burning of contaminated wastes. This issue is addressed in the final version of the RCRA "dioxin" regulation.

In particular, in the preamble to the RCRA dioxin waste regulation proposed on April 4, 1983, the Agency solicited comments on whether the 99.99 percent DRE required for all other RCRA hazardous wastes should be modified to a 99.9999 percent standard for these wastes. As a consequence of comments received on the proposed regulation as well as the fact that 99.9999 percent destruction is required for PCBs, the Agency has decided that the stricter standard should be required. The Agency also determined that these wastes, in general, must be incinerated only at fully permitted facilities. Meanwhile, however, in order to create sufficient management capacity, the Agency may determine that interim status facilities that can demonstrate compliance with the Part 264 performance standard for CDD/CDF Principal Organic Hazardous Constituents (POHCs) will also be allowed to incinerate these wastes.

Further, with respect to the Petitioners' request that the Agency require periodic inspection of facilities incinerating these wastes, the Agency notes that the RCRA Amendments of 1984 require the inspection of these facilities every two years. EPA is inclined to judge that this requirement plus other current compliance procedures are adequate to ensure that the required DREs are achieved. For example, during the RCRA permit process, very carefully chosen operating conditions are established; these conditions, measured during the trial burn, establish the range of operating conditions of the incinerator, within which it has been determined to meet the technical incinerator performance standards. (Should it operate outside this range, it would not be in compliance with the standards and would have to stop incinerating the waste.) Records must be kept on the operating conditions of the incinerator to assist in the enforcement of this requirement.

5. *Control of Underground Injection.* The petition requests EPA to: (1) Ban the ". . . underground injection of . . . such listed waste . . ." and (2) "prohibit any underground injection of waste contaminated by the specified isomers" in excess of 1 ppb.

The Agency, has inititated activity addressing the Petitioners' issues and concerns related to underground injection. These activities, described below, will be completed within the schedule included in the Hazardous and Solid Waste Amendments of 1984.

Section 201(f) of the "Hazardous and Solid Waste Amendments of 1984" requires the Administrator to complete a review of the disposal of hazardous wastes (certain solvents and dioxins) and to make a determination regarding their disposal by underground injection into deep injection wells. The Amendments further require the Administrator to promulgate final regulations prohibiting the disposal of such wastes into such wells if it may reasonably be determined that this disposal may not be protective of human health and the environment for as long as the waste remains hazardous. The Administrator must also consider the goal of managing hazardous waste in an appropriate manner in the first instance and the persistence toxicity, and propensity to bioaccumulate of such wastes and their hazardous constituents. The reviews, determinations, and possible issuance of regulations are to be accomplished within 45 months of enactment of the Amendments. If the Administrator fails to make the necessary determinations on time, the subject hazardous wastes are prohibited from disposal into any deep injection well. The Agency intends to meet its obligations under the "Hazardous and Solid Waste Amendments of 1984". Depending upon the results of the reviews and assessments, EPA will consider whether changes are appropriate for the UIC regulations governing injection of materials other than hazardous wastes.

Incineration is indicated by the Petitioners as the only method for disposal of the dioxins and dibenzofurans, the rational apparently being that incineration results in complete destruction of the isomers. However, neither incineration nor underground injection are without risks. Arguments have been made that underground injection, subject to the requirements of the UIC regulations, is a reasonably environmentally sound method for disposing of hazardous and other wastes.

Two recent studies provide an assessment of injection technology. In 1981, the Office of Solid Waste conducted a survey of hazardous waste management practices. The results of this survey were published in "National Survey of Hazardous Waste Generators and Treatment, Storage and Disposal Facilities Regulated Under RCRA in 1981". The Office of Drinking Water is currently conducting a study of injection wells, and information has been gathered from State files. In addition, the Agency formed a Task Force which visited 20 hazardous waste injection facilities. The general and specific information obtained from the State files and the visits is being evaluated and will soon be available in a report.

C. Water Discharges

Petitioners have requested the EPA initiate regulatory actions to control the flow of the specific isomers into water bodies from point and non-point sources. EPA was requested to apply this prohibition to specific dischargers of these isomers whether discharging directly into the waters of the United States or indirectly through publicly owned treatment works (POTWs). The Agency was also requested to publish water quality criteria governing the specified isomers, similar to those published for 2,3,7,8-TCDD under the authority of section 304 of the Clean Water Act, and to promulgate appropriate guidelines and regulations defining the methods to be used in determining compliance with the effluent prohibition and water quality standards, including: (i) The specification of high volume preconcentration techniques to be used in Gas Chromatography/Mass Spectroscopy (GC/MS) analyses of effluent samples to ensure that the concentrations of the specified isomers do not exceed those published in the water quality criteria; and (ii) biomonitoring of caged fish.

Other requested actions include: establishment of best management practices (BMPs) for involved facilities requiring the collection and treatment of site runoffs and proper disposal of all equipment exposed in any way to the specified isomers; compliance monitoring by the PTWs accepting wastewater from involved facilities, prior to discharge into the POTW; examination of areawide waste treatment management plans for their sufficiency in protecting against surface and/or ground water contamination; and investigation of potential sources of specified isomers not covered in the petition to determine the need for effluent prohibitions.

In addition, the petition requests that EPA ban the ocean dumping and strengthening the present at-sea incineration standard for the listed wastes. EPA has a number of activities underway that to a large extent address the Petitioners' public health and environmental concerns. EPA is taking actions in each of these areas as discussed below.

1. *Section 307(a) Listing and Discharge Prohibition.* Factors which

need to be taken into account in revising the section 307 list and establishing discharge standards or prohibitions include the toxicity, persistence, degradability, usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. This information is not available for most of the isomers of concern, EPA is currently attempting to generate information on these factors. Further, in exercising its discretion as to whether to promulgate an effluent standard, EPA does not necessarily think it makes sense to issue a standard for individual isomers, and so needs to gather this information before determining whether to promulgate effluent standards or prohibitions.

Specifically, in addition to the health effects research described later, as part of its National Dioxin Study EPA is currently analyzing soil, stream sediment, and fish tissue samples both at background sites and at sites where contamination may have occurred from the manufacture, handling, or use of pesticides derived from 2,4,5,-trichlorophenol. These samples are currently being analyzed for 2,3,7,8-TCDD. EPA plans to analyze at least a subset for other dioxin isomers and furans. These analyses will cover homologue classes or specific isomers, depending in part on the availability of analytical methods and reference standards.

In addition, EPA plans to collect samples near certain other types of facilities, particularly those involved, with pentachlorophenol use, and analyze these samples for a range of dioxin and furan isomers. EPA hopes in the future to be able to selectively analyze some of these samples for brominated dioxins and dibenzofurans, where appropriate.

EPA is cooperating with the states of California and Oregon which are conducting studies of PCP contamination from wood preservation operations. PCP is known to be contaminated with several of the higher chlorinated dioxins. In addition to providing information on site-specific problems, these studies will help determine the need for a broader investigation.

The information-gathering activities from the Offices of Pesticides Programs and Toxic Substances that were discussed earlier will assist in further identifying facilities which may be causing or have caused contamination.

Based on all of this information, EPA will make decisions on whether to pursue appropriate actions under section 307 such as proposing effluent standards, or an effluent prohibition as requested by petitioners. If National Dioxin Study results indicate that contamination is limited or localized, it may be more appropriate to include limits in individual NPDES permits.

If EPA determines that effluent standards or prohibitions under section 307 are warranted, the requirements will be incorporated as appropriate into the pretreatment programs.

EPA has taken a number of regulatory actions to reduce surface water discharges of dioxins and furans. These include effluent guideline regulations prohibiting discharges from wood preserving facilities, as well as proposing to prohibit discharges from pesticide formulators. The latter would eliminate these facilities as sources of water discharge of dibenzodioxins and dibenzofurans.

2. *Ambient Water Quality Criteria.* Final ambient water quality criteria for 2,3,7,8-TCDD were issued February 15, 1984, at (49 FR 5831). In addition, publication of final ambient water criteria for 2,3,7,8-TCDF is expected in 1986. If it is judged to be necessary, development of ambient water quality criteria for other dibenzodioxin and dibenzofuran isomers will occur based on their identification in the aquatic environment by the National Dioxin Study and the follow-up studies described above. Development of these criteria might require the completion of additional human health and aquatic toxicology research, unless current EPA minimum data base requirements for criteria documents are modified.

3. *High Volume Preconcentration Techniques.* While high volume preconcentration of effluent for analysis of PCDDs has been conducted in a limited investigation of effluent, optimum procedures have not been defined and validated. If preconcentration of effluent standards were to be adopted, collection matrices such as Tenex or activated carbon would have to be assessed for trapping efficiency of both desired compounds and interferences. Recovery efficiency of desired compounds would also have to be established.

In the National Dioxin Study, EPA has generally focused on analysis of fish and sediment samples due to the low solubility of these contaminants in water and on their tendency to accumulate in these segments of the ecosystem. Analytic methods currently available allowed detection of TCDD in the effluent at the Dow Midland facility at a level of 50 parts per quadrillion without the use of preconcentration.

Trace analyses for water well below one ppt can be done routinely by a number of laboratories including three EPA research laboratories referred to as the TROIKA, and contract laboratories. Detection of high levels of dioxins and furans in fish or sediment may provide an impetus for the development of preconcentration techniques or more sophisticated analytic methods.

4. *Biomonitoring of Effluent Prohibitions.* EPA has used caged fish to detect PCDDs in a limited investigation of one effluent. However, optimum procedures have not yet been defined. Due to the inherent variability likely to be encountered in fish tissue analysis (40 percent), it may be difficult to demonstrate no net increase in residue levels accurately with this procedure.

The caged fish technology is not, however, being neglected by EPA. The Petitioners' request is not now feasible due to the lack of standardized techniques and the need to better understand how well fish take up and retain isomers. As this information becomes available, the approach could be used more routinely in the field.

5. *Section 304(e) Best Management Practices.* EPA has imposed controls on plant site runoffs in approximately 20 percent of its major industrial permits, although there are as yet no industry-wide best management practice requirements. As described in the response to requested actions under section 307, EPA will be receiving the Dioxin Strategy results over the next year and will be collecting additional information from other sources. These data will be reviewed to determine the extent of potential runoff contamination problems from the various types of facilities. In addition, EPA will review the regulations concerning best management practices which the State of Oregon has developed for wood preservers to evaluate their national applicability.

Based on all of the above information, EPA will evaluate the need for runoff controls for the various types of facilities, and determine whether controls should be developed for certain categories of facilities or whether site-specific controls in individual permits would be more effective. With respect to regulating the proper disposal of potentially contaminated equipment, this type of action, if necessary, might be more appropriately addressed under RCRA.

6. *Section 208.* The section 208 planning process has not received Federal funding since FY'81. Most plans have been completed, with final approval of the remaining plans

expected this fiscal year. The types of water quality problems addressed under this planning process were largely fundamental ones, e.g., municipal and industrial treatment plant needs, soil erosion, and urban runoff. Few, if any, of these plans addressed specific problem pollutants of the type described in the petition.

A part of its National Dioxin Study, EPA is examining some 25–30 sites across the country where documentation shows that herbicides derived from 2, 4, 5-trichlorophenol were or are still being used. These sites include rice fields, sugarcane fields, rangelands, rights-of-way, forest lands, and lakes where these herbicides were used for aquatic weed control. The results of these examinations will provide an indication of the nature and extent of contamination in these types of areas and whether further controls are necessary. Should they be necessary, other options will be considered.

7. *Ocean Dumping.* EPA's existing ocean dumping regulations, consistent with the requirements of the London Dumping Convention (LDC), generally prohibit the ocean dumping of wastes containing organohalogen compounds, unless these compounds are present only as trace contaminants or are rapidly rendered harmless on disposal. The regulations utilize bioassay techniques on whole waste streams to determine if such compounds are present in more than trace amounts. These bioassay tests are performed on solid, suspended, and liquid phases of the wastes following consideration of the physical and chemical composition of the wastes. For wastes containing organohalogen compounds, the existing regulations provide that the liquid phase may not exceed applicable marine water quality criteria following initial mixing; for organohalogens not included in applicable marine water quality criteria, the bioassay results must demonstrate that such compounds are not present in concentrations which will cause significant undesirable effects due either to chronic toxicity or bioaccumulation after allowance for initial mixing. In addition, the regulations provide that bioassay results for the suspended and solid phases must not indicate the occurrence of significant morality or significant adverse sublethal effects due to the dumping of wastes containing such compounds. As provided for in the LDC, the regulations contain a limited exception to these prohibitions in order to address emergency situations posing an unacceptable risk to human health and admitting of no other feasible solution. As a practical matter, EPA rarely receives emergency permit applications and carefully evaluates the nature of the emergency and unavailability of other means of disposal. Accordingly, the existing regulations generally prohibit the ocean dumping of materials containing organohalogen compounds in amounts which would result in significant mortality or sublethal effects as determined through bioassay tests.

EPA is currently conducting a comprehensive review of the ocean dumping regulations in light of program experience gained over the years. Among the areas being considered are possible refinements to the existing bioassay procedures. Upon completion of that review, the Agency will determine the areas where changes to the ocean dumping regulations are appropriate and issue proposed amendments for public comment.

8. *Ocean Incineration.* EPA has devoted considerable attention to the subject of at-sea incineration. Regulations are planned for proposal in 1985. EPA has also prepared a draft research strategy aimed at both improving the Agency's ability to measure emissions and determining the toxicity of these emissions.

9. *Investigation of Other Potential Sources.* EPA has initiated a significant sampling program in the aquatic environment as part of the National Dioxin Study. EPA feels that this is one of the most appropriate starting points for an investigation of potential sources of environmental contamination. Positive results in specific areas will enable the Agency to focus on particular sources and source categories, or specific or general geographic areas.

D. Air Emissions

Petitioners have requested EPA to: (i) Undertake stack monitoring at major representative municipal and hazardous waste incinerators (including ocean vessels), and estimate intermedia transfer, utilizing current scientific information on environmental fate and half-life; (ii) initiate a study to ascertain air emissions from other sources, including manufacturers and hazardous waste disposal sites; (iii) complete health assessment documents for the remaining specified isomers. Consistent with section 112 of the Clean Air Act, these documents should specify the ambient concentration level necessary to protect public health with an ample margin of safety; (iv) update EPA's survey of dioxin and furan emissions from large scale municipal incinerators and resource recovery facilities; and (v) promulgate an air emission standard of 0.1 parts per trillion for the sum of the specified isomers at the stack or source.

These requests are best addressed in terms of EPA's general investigatory and research authorities and Clean Air Act regulatory authorities, the Agency has activities underway that to some extent address the Petitioners' requests and concerns. These activities are described below.

1. *Municipal Incinerators.* EPA has conducted substantial testing of municipal incinerators. Six of the approximately 40 large conventional municipal waste incinerators in the United States have been tested to date. Based on the results of these tests, the Agency concluded that ground level exposure to TCDD emissions from well-operated facilities do not pose a public health problem to persons living in the vicinity of these sources.

In addition to these activities, EPA is involved in the testing of other incineration facilities of concern, and is cooperating with other agencies and governments which have initiated testing programs.

EPA is providing funding support and technical consultation to the New York Department of Environmental Conservation (NYDEC). NYDEC is planning to conduct stack testing at a number of municipal incinerators.

EPA is also cooperating with Environment Canada, which is evaluating three municipal incinerators under the National Incinerator Evaluation Program. This 3-year, $3-million undertaking is focusing on minimizing dioxin and furan emissions through proper operation of such facilities.

Therefore, in addition to existing data, EPA expects to have access to additional testing results from the following locations: Albany, NY; Oneida, NY; Catteraques County, NY; Westchester County, NY; Hampton, VA; Philadelphia, PA; Pittsfield, MA; Niagara Falls, NY; Brooklyn, NY; Charlottetown, Canada; Quebec City, Canada; and Hamilton, Canada. Testing at these facilities will provide information on a variety of chlorinated dioxin and furan emissions in the tetra- through octa-homologue classes.

Section 102 of the RCRA Amendments of 1984 imposes a number of significant responsibilities upon EPA. The Office of Solid Waste has been charged with preparing a document describing: (i) The current data and information available on emissions of polychlorinated dibenzo-*p*-dioxins from resource recovery facilities burning municipal solid waste; (ii) any significant risks to human health posed by these emissions;

and (iii) operating practices appropriate for controlling these emissions.

The last requirement is particularly important. In light of current data which suggest that well designed and properly operated facilities do not pose a public health problem for adjacent areas, EPA is focusing on development of a guidance document describing proper operation practices for municipal waste incinerators. This is similar to the Canadian effort in that both are oriented toward achieving emissions controls.

EPA anticipates that it will explicitly consider a number of concerns raised by the Petitioners, in the process of addressing the first two requirements. These include: Evaluation of hepta-CDD and CDF emissions as well as the tetra-, penta-, and hexa-isomers; consideration of available data on environmental accumulation of dioxins and furans from such sources; and reviewing recent applicable health assessments and international incinerator studies including efforts to identify precursor compounds.

EDF/NWF requested that EPA perform an analysis of the cumulative effects of multiple facilities. New York City is the only area where such a concentration is currently planned. New York will perform an analysis of cumulative effects as part of its environmental impact assessment.

2. *Hazardous Waste Incineration.* EPA has focused considerable attention on hazardous waste incineration since the passage of the Resource Conservation and Recovery Act (RCRA) in 1976. Research and testing activities continue both at EPA's test facility in Arkansas, and at private sector facilities.

EPA recently completed a study of six hazardous waste incinerators (Ref. 9). These incinerators were tested for tetra- and penta-chlorinated dioxins and furans in stack gas, ash and scrubber water. Dibenzofurans were detected at very low levels at three of the six facilities. Dioxins were found at only one. It is important to note that two of the furan-emitting facilities and the dioxin-emitting facility were deliberately operated at abnormal conditions for purposes of the test. Detection limits ranged from 0.0003 to 0.002 ng/L.

3. *Other Potential Sources of Air Emissions.* Under Tier 4 of the National Dioxin Study, EPA has initiated a significant effort to evaluate dioxin and furan emissions from source categories other than municipal and hazardous waste incinerators. It is possible that other source categories may emit similar or larger quantities of dioxins and furans or have greater associated exposure and risk, than do municipal waste incinerators.

In selecting sources for testing, EPA identified source categories with the potential to emit the contaminants of concern. Then, using information on production volume, throughput and the presence of dioxin precursors, the source categories were ranked for purposes of allocating testing resources.

Stack testing for dioxins and furans is presently an expensive undertaking. Costs are in the neighborhood of $100,000 per facility, exclusive of the cost of analyzing the samples. This is in contrast to $10,000–20,000 for stack testing for conventional pollutants.

EPA currently plans to conduct full scale testing at approximately 12 facilities. EPA will also collect ash samples from approximately 45 facilities in various categories to screen where more intensive testing may be warranted. Table 2 contains a listing of the source categories of interest as well as a description of the ranking system employed. More detailed information is available in the Tier 4 workplan and in the Tier 4 Sampling Plan.

TABLE 2 -- RANKED SOURCE CATEGORY LIST
TIER IV NATIONAL DIOXIN STUDY

Rank Description	Source Categories
Rank A - Large source categories (greater than 1 million tons of fuel and/or waste burned annually) with elevated dioxin precursor contamination of feed/fuel. These categories are judged to have the highest potential to emit TCDD.	Sewage Sludge Incinerators Black Liquor Boilers Commercial Boilers Firing Fuels Contaminated with Chlorinated Organic Wastes
Rank B - Small source categories (less than 1 million tons of fuel and/or waste burned annually) or source categories with limited dioxin precursor contamination of feed/fuel. These categories have a high potential to emit TCDD.	PCP Sludge Incinerators Carbon Regeneration (Industrial) Charcoal Manufacturing Wire Reclamation
Rank C - Source categories less likely to emit TCDD.	Wood Stoves Boilers (Firing PCP-treated Wood) Mobile Sources Small Spreader-Stoker Coal Boilers Hazardous Wastes Incinerators Lime/Cement Kilns Co-fired with Chlorinated Organic Wastes
Rank D - Source categories which have already been tested three or more times.	Municipal Solid Waste (MSW) Incineration Industrial Boilers Co-firing Wastes

In conducting these tests EPA will collect gaseous and particulate stack emission samples, both before and after controls, ash samples from the control device and firebox ash hoppers, and samples of the feed or fuel. Precombustion air samples will also be collected at sources where a significant concentration of precursors may be present due to other nearby sources.

Stack, ash and precombustion air samples will be analyzed for the 2,3,7,8-TCDD, 2,3,7,8-TCDF, total dioxins and total furans for each of the higher homolgues (i.e., tetra, penta, hexa, hepta and octa). Precombustion air and feed samples will also be analyzed for selected suspect dioxin precursors. Sufficient quantities or duplicates of all samples will be collected for possible future analysis.

At the conclusion of the Tier 4 study, the Agency will have collected either screening samples or detailed stack samples from a number of combustion source categories. These data will provide the Agency with a better understanding of the source categories which emit chlorinated dioxins and furans to the atmosphere.

EPA's ability to estimate intermedia transfer for various isomers, either collectively or individually, is fairly limited at present. Not enough is known about the physical and chemical properties of halogenated dioxins and furans for deposition modeling of the compounds as they are dispersed from the stack and settle to the ground.

In order to make reasonable estimates of intermedia transfer, it will be necessary to determine vapor pressures of the various compounds and distribution of the compounds on particulate matter with various size and aerodynamic properties. In addition, little is known about the effect of ultraviolet light as these substances pass through the atmosphere.

Research is underway on the persistence and fate of these chemicals once they settle on solid surfaces. Other research in this area is currently underway at EPA and various research institutions. Development of the necessary information is expected to require several years. In the interim, EPA will obtain empirical information on accumulation of dioxins in the environment through efforts in Tiers 3–7 of the National Dioxin Strategy and through sharing information with other governments.

A report to Congress will summarize current knowledge on dioxins and will also include the furan emissions information which is available from combustion sources. The status of ongoing studies will be included, with available results incorporated. For example, all available stack test data being collected from various combustion sources by New York State and others will be included. Of particular interest will be preliminary results from Environment Canada's examination of the significance of operating conditions on dioxin emisions. An updated list of recommendations for future action, testing, and study will be provided at that time, if warranted.

In support of RCRA activities, and independent of Tier 4, EPA plans to test air emissions from hazardous waste disposal sites. Given the low volatility of the contaminants of concern, it is unlikely that dioxins and furans will be in a gaseous state. Thus, EPA will test for these chemicals in the particulate matter escaping from these facilities.

EPA currently has no plans to test fugitive process emissions. As the Agency develops information on production processes and contaminant levels, it may be possible to identify sources and source categories where such testing is warranted. In addition, if Tier 4 results indicate that dioxins should be listed as a hazardous air pollutant, subsequent work in support of the listing may involve characterization of fugitive process emissions.

4. *Health Assessment Documents.* EPA has a significant effort underway to develop health documents which assess the potential health impacts of exposure to dioxins and dibenzofurans. However, before discussing these documents, it might be helpful to clarify some Agency terminology. EPA's research office (ORD) prepares several types of health assessment documents in addition to the specific "health assessment documents" prepared for the Air Office. These latter documents are referred to by the Agency as Health Assessment Documents (HAD) for Hazardous Air Pollutants.

Other health-related assessment documents prepared by the Agency include Health and Environmental Effects Profiles (HEEP documents) prepared for the Solid Waste Office, Ambient water Quality Criteria Documents (AWQCD) prepared for the Water Office, and Drinking Water Criteria Documents (DWCD) prepared for the Drinking Water Office. As noted below, a number of these other health assessment related documents have been prepared for selected dioxins and dibenzofurans. Because the same type of health assessment data is utilized, that is, all available relevant data, as if a HAD were being prepared, these "non-HAD" documents are pertinent to any discussion of HADs for these classes of compounds.

A health assessment document (HAD) has recently been completed which includes 2,3,7,8-TCDD, 1,2,3,7,8-PeCDD, 1,2,3,6,7,8-HCDD and 1,2,3,7,8,9-HCDD. A Tier 1 preliminary HAD is in preparation which addresses the chlorinated congeners of dibenzofurans: The peer review draft is due March 31, 1985; the peer review workshop is scheduled for April 30, 1985; the external review draft is due September 30, 1985. A draft HEEP for tetra-, penta-, and hexachlorodibenzo-*p*-dioxins was completed in January 1984; a draft HEEP for the same congeners of dibenzofurans was completed in December 1983. A HEEP document for the brominated dioxins, and another for the brominated dibenzofurans, are scheduled for completion by 9/30/85. An AWQCD for 2,3,7,8,-TCDD was completed in February 1984. A draft DWCD for 2,3,7,8,-TCDD is undergoing revision.

By July 1, 1985, draft HADs (which have been at least peer-reviewed) will be available for the chlorine substituted dibenzofuran congeners of concern to EDF/NWF; HADs are also available for the chlorine substituted dioxin congeners of concern to EDF/NWF, with the exception of 1,2,3,6,7,8,9-HeCDD, which has been assigned a lower priority by EPA as noted earlier.

No HADs presently are planned for the exclusively brominated congeners of dioxins or dibenzofurans, nor for congeners with mixed halogen substitution, in FY'85. They will be prepared only if they are necessary to support program-specific activities.

As noted above, an AWQCD has been prepared for 2,3,7,8-TCDD and a DWCD for the same isomer is nearing completion. AWQCDs were developed for the 65 pollutants listed as toxic under the Clean Water Act (CWA), pursuant to section 304 of the CWA and in compliance with a court order. DWCDs have been prepared for 28 substances, including 2,3,7,8-TCDD, in FY'84. DWCDs are planned for between nine and nineteen additional substances (not including dioxins or dibenzofurans) in FY'85.

In summary, the Agency is in the process of providing the health assessment documents (HADs) requested for all of the exclusively chlorine substituted dioxin and dibenzofuran congeners of concern to EDF/NWF, with the exception of 1,2,3,6,7,8,9-HeCDD. The Agency will determine whether bromine-substituted congeners are in the environment at levels of concern, before preparing HADs for these compounds.

HADs prepared for the Air Program normally contain a quantitative estimate

of cancer risk when there is evidence that the agent may be a human carcinogen. However, the Health Assessment Documents prepared by ORD for the Air Office do not suggest or specify ambient concentration levels necessary to protect human health. Setting levels of concern for public health protection would be a subsequent step in the regulatory process. Similarly, when the HEEP documents for brominated dioxins and dibenzofurans are provided to the Office of Solid Waste in FY'85, they will not suggest or specify environmental levels to protect health.

The AWQCD for 2,3,7,8-TCDD does not set or specify a specific environmental concentration of concern. However, it does estimate the environmental concentrations in water and fish which correspond to several incremental lifetime cancer risk levels. In addition, a toxicity-based maximum advisable daily intake (ADI) was calculated for comparison, in accordance with public comments. The DWCD for 2,3,7,8-TCDD also estimates drinking water concentrations associated with several cancer risk levels, estimates one- and ten-day health advisory levels, and estimates adjusted ADIs (AADIs) for adults and children.

5. *National Emission Standards for Hazardous Air Pollutants.* Authority to establish National Emission Standards for Hazardous Air pollutants (NESHAP) is provided in section 112 of the Clean Air Act. The Act states that regulations must be established at a level to protect the public health with "an ample margin of safety", a term that is not explicitly defined. Section 111 allows the Agency to establish allowable emission limits as a standard of performance for new or modified stationary sources, reflecting best available control technology.

In evaluating PCDDs under section 112, the Agency must first determine whether dioxins emitted to the ambient air poses a significant risk to human health. The EPA is concerned with all human health effects that could result from exposure to dioxins, although cancer is one of the Agency's primary concerns because of the relatively high incidence of mortality associated with such disease, and because of the Agency's presumption that exposure to any carcinogen is associated with some finite risk. A crucial element in the evaluation is the extent of human exposure resulting from the atmospheric dispersion of dioxins. The Tier 4 study will provide the Agency with valuable data on representative combustion sources and emission rates. As the Agency develops sampling data on potential emitters of dioxins, it will estimate human exposure. Exposure in terms of concentration of dioxins coupled with populations exposed to the concentration yields an exposure assessment that can be utilized to estimate risk. Risk assessment of combustion source categories in the inventory of dioxin emitters will be undertaken based on the final unit risk factor developed for PCDD by the Carcinogenic Assessment Group as described in the Health Assessment Document. With regard to risk assessment of 2,3,7,8 substituted dioxin congeners, the Agency is examining methods of extending the analyses beyond 2,3,7,8-TCDD. The Agency recognizes the highly toxic potential of these other isomers, and will give them careful consideration in the section 112 process.

The risk assessment will provide an estimate of the magnitude of the health hazard from airborne emissions of dioxins and will play an important role in the Agency's determination of whether dioxins warrant listing under section 112 as hazardous air pollutants. If listed, EPA would subsequently develop emission standards for dioxin sources determined to pose significant health risks. Such standards could include control of process, fugitive or stack emissions. There could be separate standards for different types of combustors or combustion processes given the differences in design, operation or type of feedstock between source categories. The Agency is currently evaluating the need to regulate airborne emissions of dioxins under the CAA, and expects to reach a decision upon completion of this evaluation. If dioxins are listed as hazardous air pollutants, EPA will determine the source categories to be regulated and the appropriate levels of control for each selected category.

E. Research

Petitioners have requested that EPA undertake research activities in the following areas: (i) Obtain information on the extent of contamination of bromophenol, bromobenzene, and other brominated commercial products by brominated dioxins and furans; (ii) update EPA's survey of dioxin and furan emissions from large-scale municipal incinerators and "resource recovery" facilities; (iii) continue research on the toxicity and environmental fate of these classes of chemicals, including examination of toxic effects in addition to cancer, to determine the need for further regulation; and (iv) conduct research to determine the environmental fate characteristics and aquatic toxicity in the acquatic environment. Although Petitioner' requests are not petitionable under TSCA, EPA does have significant research activity underway related to dioxins that to some extent addresses the Petitioners' concerns.

EPA research activities are designed primarily to support the Agency's programmatic and regulatory activities outlined earlier in the petition. EPA, in addition to the activities described in this response, is actively monitoring ongoing research at other Federal agencies, in the private sector and throughout the world. EPA has recently proposed the establishment of a formal international dioxin exchange effort under the umbrella of NATO's Committee on Challenges of Modern Society (CCMS). This mechanism can include non-NATO countries such as Japan, Switzerland, Sweden and Austria that have an interest in the topic.

The discussion below of the Petitioners' research requests starts with the third request because the first two were discussed in Units IV.A. and IV. C.1., and V.D., respectively.

The Petitioners support the continued research on toxicity and fate of chemicals (they have called attention to the possibility of creation of less halogenated congeners from more highly halogenated ones), and request that endpoints other than cancer should be included in the regulatory decisionmaking.

The Agency agrees with the Petitioners that other endpoints should be taken into consideration in the decisionmaking process, and in fact is doing so. For example, reproductive toxicity data on animals are part of the health and environmental risk assessment information being used in current regulatory decision processes relative to PCDDs and PCDFs. In addition, data on teratogenicity and other reproductive effects are evaluated in animals and in human populations, indications of *in vivo* and *in vitro* genotoxicity are evaluated, and data for the presence of pharmacokinetic alterations are examined and incorporated into the risk assessment process.

The Agency agrees with the Petitioners' request that toxicological data on brominated isomers as well as interconversion of one isomer into another is scientifically desirable. As with all other Agency research needs, EPA sponsorship of this type of research will be evaluated through the normal EPA research planning process. Present knowledge of structure-activity

correlation will be considered in the design of this research.

The coordination of research efforts with other Federal agencies, such as the National Institute for Occupational Safety and Health (NIOSH), the National Institute of Environmental Health Sciences (NIEHS), the Department of Defense (DOD), the National Toxicology Program (NTP), the National Cancer Institute (NCI), and the Department of the Interior (DOI), will ensure the quality of data and guarantee that limited research funds are used most cost-effectively. This is especially important in the area of clinical and epidemological studies where an increased emphasis will be placed on biological indicators of exposure and preclinical indicators of disease. An example is the joint EPA/NIOSH epidemiological mortality study of dioxin exposure of exposed and nonexposed worker cohorts. CDC will follow up on this particular effort. Human tissues as well as fish and other wildlife are being sampled for exposure.

The Agency has ongoing research dealing with bioaccumulation of 2,3,7,8-TCDD in fish and uptake of dioxins by large animals grazed on contaminated soils. The Agency's planned work on uptake of 2,3,7,8-TCDD from fly ash as well as other contaminated samples should provide data on the bioconcentration of dioxins in two fish species by late 1985. These results will be used to re-evaluate the bioaccumulation estimate in the AWQCD and determine if environmental assessments are necessary to determine bioaccumulation factors. Similarly, by 1987, the planned work on uptake by large animals (cows) should provide additional data on the extent of contamination and the potential food chain transport of 2,3,7,8-TCDD, as well as the trophic transfer of organisms in the foodweb. Existing data on uptake of 2,3,7,8-TCDD by plants is expected to be evaluated by September 1986. The Agency plans to complete the work on movement and adsorption of 2,3,7,8-TCDD in soils in 1985. Completion of the activities that focus on 2,3,7,8-TCDD will provide qualitative information on other isomers. This information will be used in planning related research for other dioxin-like isomers. The Agency also plans to investigate the transformation and persistence of 2,3,7,8-TCDD.

The petition requests that EPA "conduct research to determine the environmental fate characteristics and aquatic toxicity in the aquatic environment."

Petitioners are concerned about the propensity of PCDDs and PHDFs to bioaccumulate in benthic organisms and to biomagnify in aquatic food chains. They further express concern that EPA's regulatory approach excludes food chain bioaccumulation.

The Petitioners have called attention to the role of sediment binding and unbinding of dioxins in food chain magnification and in defining the bioconcentration factor for dioxins. They request that the bioavailability of dioxins from bound sediments and their biomagnification into food chain systems be investigated. The Petitioners also suggest that EPA obtain necessary data to calculate chronic toxicity values and wildlife residues.

During late 1984, the Agency convened a national workshop to develop an agenda to perform various aspects of bioavailability research. The report of this workshop will be completed during 1985. It is expected that, as a result of this research agenda the Agency will emphasize further research on the bioavailability of dioxins with possible emphasis on food chain magnification, chronic toxicity work and wildlife toxicity.

The Agency agrees that estimation of the extent to which environmental pollutants enter the food chain is the important factor in estimating human exposure. Indeed, the Proposed Guidelines for Exposure Assessment mention the food chain, as well as drinking water and ambient levels, as source data needed in exposure assessment [49 FR 46304 (November 23, 1984)]. The Ambient Water Quality Criteria Document (AWQCD) on TCDDs (EPA 440/5-84-007) discusses bioconcentration factor (BCF) data obtained under several conditions, including microcosmic environments. The BCF chosen for the calculations in the AWQC document in part reflect the fact that this lower value was thought to more closely reflect possible food chain magnification than the much larger values obtained in artificial study systems.

1. *Other Ongoing Dioxin Related Research.* The EPA is currently conducting an accelerated research and evaluation dioxin-engineering program. Major projects include: (i) Evaluation of the EPA mobile incinerator for CDD-contaminated wastes and soils; (ii) Pilot-scale, field evaluation of ultraviolet photolysis-alkali metal polyethylene glycolates (APEG) chemical detoxification methods; and (iii) Assessment and evaluation of *in-situ* stabilization techniques (e.g., asphaltic mixtures, Portland cement, geotextiles, etc.), including use of abandoned mines for CDD-contaminated soils.

In addition, EPA is currently evaluating whether it is possible to correlate the CDD and CDF content of soot produced as a result of a "fire," with chlorobenzene and PCB content within the transformer/capacitor fluid. This type of information will be useful in estimating the maximum potential for CDD/CDF formation and subsequent exposure potential in situations of concern to the electrical utilities, insurers, and firemen. Transformer installation can thus be planned to significantly reduce the potential for exposure during uncontrolled fires.

As part of the EPA's Human Monitoring Initiative, a group of human adipose tissue composite specimens have been analyzed for PCDDs and PCDFs. These samples were collected through the National Human Adipose Tissue Survey which collects samples from across the country. EPA presently has 17 samples and plans to eventually analyze 46 samples.

EPA is currently considering whether to conduct an assessment of alternative methods to producing chlorinated and brominated phenols, benzenes, bisphenols, and biphenyls to prevent otherwise unavoidable generation of PHDDs and PHDFs. Through its Office of Research and Development, EPA is also exploring the possibility of pursuing cooperative projects with industry to evaluate process changes and modifications of existing processes to reduce the levels of PCDDs in certain products. Technological innovation to prevent otherwise unavoidable generation of PHDDs and PHDFs will be encouraged by this as well as all the other activities described in this response.

EPA is conducting a number of methodology and reference material research efforts in support of the Agency's overall dioxin activities.

2. *Development and Verification of Analytical Methodologies.* This includes: (i) Testing a high resolution gas chromatograph/high resolution mass spectroscopy (HRGC/HRMS) method for analysis of environmental samples for 2,3,7,8-tetrachlorodibenzo-*p*-doxin; (ii) developing a guidance document for sampling and analysis of environmental samples for penta-, hexa-, hepta, and octa- Chlorodibenzo-*p*-dioxins; (iii) performing trace analyses at the parts per trillion detection level for 2,3,7,8-TCDD in support of the Dioxin Strategy; and (iv) evaluating a low resolution GC/MS (LRGC/MS) procedure for analyses of waste materials for dioxin and dibenzofuran homologues.

3. *Development of Reference Materials and Quality Assurance.* This

includes: (i) Producing the 22 tetrachlorodibenzo-*p*-dioxin isomers; (ii) providing quality assurance materials and guidance to EPA's Mobile Incinerator field demonstration; (iii) producing reference standards and calibration solutions for 2,3,7,8-TCDD analysis at the one part per billion level for EPA's Superfund Contract Laboratory Program; and (iv) developing a cooperative agreement with the U.S. Centers for Disease Control (CDC) in Atlanta under which CDC will develop supplies of reference materials to support EPA analytical requirements. This will allow EPA, CDC, industry, and academia to have a common source of high quality reference material to help ensure the quality of data generated.

Finally, EPA notes that it is seeking to develop and use bioassay tests as a potential vehicle to efficiently address the current gaps in health and monitoring technology. They represent an alternative to isomer-specific activities or efforts to group isomers selectively by homologous classes, as requested in the petition. They could prove very valuable in cases where EPA's statutes and the state of the art allow their use.

In theory, the assessment of the toxicity of a mixture of chemicals requires a knowledge of the concentration and toxic potential of each component and the interactive effects of each component with each other—viz., synergism and antagonism. Regarding environmental mixtures of tetra-, penta-, and hexachlorinated dioxins and dibenzofurans alone, this would entail isomer-specific analyses of 128 isomers. Definition of the individual potential chronic systemic toxicity of each of these chemicals would be resource and time intensive. However, it may be possible to evaluate toxicity by categories or classes of chemicals, since these chemicals are structurally related and appear to act by a common biochemical mechanism. A recent report by the National Research Council of Canada has criticized an isomer-by-isomer consideration of the toxicity of these chemicals, and espouses using current knowledge of their mechanisms of action. Public health agencies of several states have also used bioassay data in the assessment of the toxic potential of environmental mixtures containing CDDs and CDFs.

Additionally, *in vitro* bioassay techniques can measure the biochemical (enzymatic, cell transformation) potential of mixtures under consideration in terms of "2,3,7,8-TCDD equivalents". These assays have been developed by several laboratories; they need to be validated by correlation of biological activity with component analysis, and by further assessment of the relationship of enzymatic activity and cell transforming potential with chronic systemic toxicity.

VI. National Dioxin Strategy

In December 1983, the EPA announced a National Dioxin Strategy to determine the extent of dioxin (primarily, 2,3,7,8-TCDD) contamination throughout the country. The strategy provides a systematic framework under which the Agency will: (i) Study the nature of dioxin contamination throughout the U.S. and the risks to people and the environment; (ii) clean up dioxin-contaminated sites that threaten public health; (iii) Find ways to prevent future contamination; and (iv) find ways to destroy or dispose of existing dioxins.

To carry out its Dioxin Strategy, EPA established seven categories (tiers) of sites for investigation and study. The sites range from those that are most probably contaminated to those where there is little expectation of finding contamination.

EPA believes over 80 percent of the dioxins will be found in the sites of Tiers 1 and 2. The other study tiers, within whose sites EPA believes 10–20 percent of the dioxins may be located, comprise the National Dioxin Study. In addition to appropriate regulatory activities, EPA will prepare a report for Congress in December 1985.

EPA has already investigated and confirmed dioxin contamination at most of the eleven sites identified to date where 2,4,5-TCP was produced. At many of these locations, companies are undertaking cleanup or are engaged in negotiations with EPA. Additional investigations will be made where appropriate, and Superfund authority will be used to clean up these locations if removal or remedial actions are needed. EPA is still in the process of identifying locations where wastes from these production facilities may have been disposed of.

Tier 2 includes nine sites where 2,4,5-TCP was used as a precursor to make other chemical products such as silvex, 2,4,5-T, and hexachlorophene. Initial sampling has been completed at most sites. The waste disposal sites associated with these facilities are also still being identified. To date, EPA has identified 76 waste disposal sites associated with Tiers 1 and 2.

Some of the sites in Tiers 1 and 2 are the subjects of various response activities including active enforcement, such as pending litigation involving a number of dioxin-contaminated sites in eastern Missouri. See *United States* v. *Russell Martin Bliss, et al.*, Civil No. 84-0200-c-(1) (E.D. Mo.), and *United States* v. *Northeastern Pharmaceutical and Chemical Company, Inc. et al.*, 579 Supp. 823 (W.D. Mo. 1984). In addition, the Agency has used a combination of enforcement actions and Superfund-sponsored cleanups to remedy dioxin contamination in the area of Niagara Falls, New York. See *United States* v. *Hooker Chemicals & Plastics Corp. (Hyde Park Landfill)*, Civil No. 79-989 (W.D.N.Y.); *United States* v. *Hooker Chemicals & Plastics Corp. ("S" Area Landfill)*, Civil No. 79-988 (W.D.N.Y.); *United States* v. *Occidental Chemical Corp. (Love Canal Landfill)*, Civil No. 79-990 (W.D.N.Y.). EPA has also taken enforcement action under the Clean Water Act to obtain needed information on discharges of dioxin in Midland, Michigan. *United States* v. *The Dow Chemical Co.*, Civil No. 83-CV-7011 (E.D. Mich.).

Implementation is well underway in all tiers of the National Dioxin Study (Tiers 3–7). Approximately 50 percent of sampling activity has been completed. EPA expects to complete sampling by June 1985.

Tier 3 consists of sites and associated waste disposal sites where 2,4,5-TCP and its derivatives were formulated in herbicide products. Approximately 70 sites will be sampled between October 1983 and October 1985.

In Tier 4, EPA is investigating the possibility that various combustion processes emit and/or produce dioxins and furans. As discussed more fully in the National Dioxin Strategy combustion source workplan, EPA will obtain emission and waste stream information from internal combustion engines and wood stoves as well as a number of industrial combustion processes which might produce such contaminants. This information will be combined with both existing and new information from hazardous waste and municipal waste incinerators to produce a profile of combustion source emissions.

Tier 5 includes sites where pesticides that may be contaminated with 2,3,7,8-TCDD have been used or are being used on a commercial basis for a variety of agricultural and silvicultural activities. Examples of these uses include clearing power line rights-of-way of brush and vegetation, and as a pesticide for rice and sugar cane fields in the Southern United States and in forests of the Pacific Northwest. Approximately 30 sites are scheduled for testing. Sampling to date has included soil, sediment, vegetation, fish, and wildlife.

In Tier 6, EPA is testing certain organic chemical and pesticide

manufacturing facilities where improper quality controls may have resulted in the production of 2,3,7,8-TCDD. Approximately 30 sites will be investigated.

Tier 7 includes sites where EPA least expects to find dioxins. They have been included as part of the study as "control" sites to determine if there are "background" levels of dioxin in the environment and, if so, how widespread they are. Soils at 500 randomly selected sites across the country—200 in rural areas and 300 in urban areas—will be sampled between July 1984 and July 1985. Fish will be sampled from over 400 locations, including streams throughout the U.S., the Great Lakes, and coastal and estuarine waters.

EPA is also conducting important research in technologies for the destruction of dioxin-laden soil, etc. EPA is on schedule for the testing of its mobile incinerator in Missouri.

Extensive support for EPA's investigation is being provided through two major laboratory programs. The Superfund contract laboratory program is providing analyses with a detection limit of approximately 1 part per billion. A consortium of three EPA research laboratories, the "Troika", is providing state-of-the-art analytic support with a detection limit of approximately 1 part per trillion.

VII. Official Record for the Petition

An Administrative record supporting this decision has been established (docket control number OPTS 211016). The record includes the following types of documents:

(1) EDF/NWF citizens' petition.
(2) Letters.
(3) Minutes of meetings.
(4) Published and unpublished data.
(5) Documents referenced in this **Federal Register** notice.

This record is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, in Rm. E-107, 401 M Street, SW, Washington, D.C. 20460. The Agency will supplement the record with additional information as it is received.

VIII. References

(1) Bellin JS, Barnes DC, "Health hazard assessment for chlorinated dioxins and dibenzofurans other than 2,3,7,8-TCDD," Presented at the Symposium on Advances in Health Risk Assessment for Systemic, Toxicants and Chemical Mixtures, Cincinnati, OH, October 25, 1984.

(2) Kimbrough RD et al., Centers for Disease Control, "Health implications of 2,3,7,8-tetrachlorodibenzodioxin (TCDD), contamination of residential soil, *Journal of Toxicology and Environmental Health* (in press).

(3) Midwest Research Institute, Memorandum from John Stanley to Janet Remmers, U.S. Environmental Protection Agency, Office of Toxic Substances, Exposures Evaluation Division, dated December 12, 1984, entitled "Analytical methods for the analysis of halogenated dibenzo-p-dioxins (PHDD) and dibenzofurans (PHDF) in commercial products," 1984.

(4) Midwest Research Institute, "Thermal degradation products from dielectric fluids," Washington, DC, U.S Environmental Protection Agency, Office of Toxic Substances, Interim Report No. 1., 1984.

(5) U.S. Environmental Protection Agency, "Dioxins," Cincinnati, OH, U.S. Enviromental Protection Agency, Industrial Environmental Research Laboratory, EPA-600/2-80-197, 1980.

(6) U.S. Environmental Protection Agency, "Dioxin strategy," Washington, DC, U.S. Environmental Protection Agency, Office of Water Regulations and Standards and Office of Solid Waste and Emergency Response in conjunction with the Dioxin Strategy Task Force, 1983.

(7) U.S. Environmental Protection Agency, "Ambient water quaity criteria for 2,3,7,8-tetrachlorodibenzo-p-dioxin," Washington, DC, U.S. Environmental Protection Agency, EPA 440/5-84-007, 1984.

(8) U.S. Environmental Protection Agency, "Health Assessment document for polychlorinated dibenzo-p-dioxins," Review draft, Washington, DC, U.S. Environmental Protection Agency, Office of Research and Development, Office of Health and Environmental Assessment, EPA-600/8-84-014A, 1984.

(9) U.S. Environmental Protection Agency, "Performance Evaluation of Full-Scale Hazardous Waste Incinerators," Cincinnati, OH, U.S. Environmental Protection Agency, Office of Research and Development, 1984.

(10) U.S. Environmental Protection Agency, "Wood preservative pesticides: creosote, pentachlorophenol, inorganic arsenicals," *Position Document 4*, Washington, DC, U.S. Environmental Protection Agency, Ofice of Pesticides and Toxic Substances, 1984.

(11) Versar, Inc., "Exposure assessment for polychlorinated biphenyls (PCBs), polychlorinated dibenzofurans (PCDFs), and polychlorinated dibenzodioxins (PCDDs) released during transformer fires," Draft final report, Washington, DC, U.S. Environmental Protection Agency, Office of Toxic Substances, 1984.

IX. Conclusion

The EDF/NWF petition for "Rulemakings to Prevent and to Reduce Environmental Contamination" has raised numerous issues relating to the nature, effects and control of polyhalogenated dioxins and dibenzofurans.

The petition's requests that EPA exercise its discretion to issue a number of regulations and other investigatory activities is denied, except to the extent that the specific planned TSCA activities as outlined in this response coincide with the Petitioner's requests, i.e., the Agency is commencing administrative proceedings to determine whether findings sufficient to support initiation of rulemaking proceedings under TSCA sections 4 and/or 8 may be made.

The EPA intends to continue its effort to broadly investigate, assess, and regulate as necessary a range or other dioxin-like compounds. EPA is pursuing these efforts as a matter of its discretion. The Agency is performing these activities because it shares the Petitioners' environmental and public health concerns. The EPA's actions in this area will be based on the Agency's judgements as to the significance of specific situations, the available state of knowledge, the requirements for EPA regulatory action, and the relative priority to be given to the different problems facing the Agency.

EPA has received several informal comments and two formal comments on the petition. The formal comments were received from the State of Michigan, the Chemical Manufacturers Association, and Paul, Hastings, Janofsky and Walker on behalf of Reichold Chemicals, Inc. and Vulcan Materials Company. (see Docket for the record on these comments). EPA recognizes the wide range of parties interested in the subject of this petition. Regulatory activities resulting from the EPA actions described in this response will go through public comment periods. This will ensure that Agency actions are based on the best available information. Furthermore, the Agency welcomes the voluntary submission of any information that the public feels may aid EPA in its endeavors. Such information should be directed to Edward A. Klein or Barry R. Korb at the address provided under **"FOR FURTHER INFORMATION CONTACT."**

Dated: January 22, 1985.

Lee M. Thomas,

Acting Administrator.

[FR Doc. 85-2191 Filed 1-29-85; 8:45 am]

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Federal Register

Wednesday
January 30, 1985

Part IV

Department of Justice

48 CFR Ch. 28
Acquisition Regulations; Final Rule

DEPARTMENT OF JUSTICE

48 CFR Ch. 28

Acquisition Regulations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice Acquisition Regulation is established to supplement the Federal Acquisition Regulations (FAR). (FAR, Title 48 CFR, Chapter 1). The FAR are promulgated as the uniform acquisition regulations and will supersede the procurement regulations previously published by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration. Previous agency implementation of the Federal Procurement Regulations will be superseded upon issuance of this rule.

The FAR are intended to provide a simplified and uniform set of acquisition regulations. Agency implementation of the FAR is to be kept to the minimum, providing agency regulations only to meet genuine unique agency policies and procedures where FAR coverage is absent or needs supplemental coverage. Lack of a particular subject area in the JAR, whether whole parts, subparts, or sections, means that the Department accepts the FAR coverage without further implementation.

DATES: These regulations are effective January 30, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Silvis, Policy and Procedures Group, Procurement and Contracts Staff, (202) 633-3217.

SUPPLEMENTARY INFORMATION:

1. Background

The proposed JAR was published in the **Federal Register** on March 5, 1984, 49 FR 8052 inviting written comments. All comments received were reviewed and appropriate changes were made to incorporate the comments.

2. Statutory and regulatory requirements

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The Department of Justice certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). All information collection requirements which require approval by OMB under 44 U.S.C. 3501 et seq. have been submitted to OMB. In those cases where an OMB control number has been assigned, the control number is included in the regulation.

List of Subjects in 48 CFR Ch. 28

Government procurement.

For the reasons set out in the preamble, Chapter 28 of Title 48 of the Code of Federal Regulations is to be established as set forth below.

Anthony C. Liotta,

Assistant Attorney General for Administration.

CHAPTER 28—DEPARTMENT OF JUSTICE

General Structure

SUBCHAPTER A—GENERAL

Part 2801—Department of Justice Acquisition Regulations System
Part 2802—Definitions of Words and Terms
Part 2803—Improper Business Practices and Personal Conflicts of Interest
Part 2804—Administrative Matters
Part 2805—Publicizing Contract Actions

SUBCHAPTER B—ACQUISITION PLANNING

Part 2807—Acquisition Planning
Part 2808—Required Sources of Supplies and Sources
Part 2809—Contractor Qualifications
Part 2810—Specifications, Standards, and Other Purchase Descriptions
Part 2812—Contract Delivery or Performance

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part 2813—Small Purchase and Other Simplified Purchase Procedures
Part 2814—Formal Advertising
Part 2815—Contracting by Negotiation
Part 2816—Types of Contracts
Part 2817—Special Contracting Methods

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Part 2819—Small and Disadvantaged Business Concerns
Part 2822—Application of Labor Laws to Government Acquisitions
Part 2824—Protection of Privacy and Freedom of Information
Part 2825—Foreign Acquisitions

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Part 2828—Bonds and Insurance
Part 2829—Taxes
Part 2830—Cost Accounting Standards
Part 2831—Contract Cost Principles and Procedures
Part 2832—Contract Financing
Part 2833—Disputes and Appeals

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

Part 2835—Research and Development Contracting

SUBCHAPTER H—CLAUSES AND FORMS

Part 2852—Solicitation Provisions and Contract Clauses

SUBCHAPTER A—GENERAL

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATION SYSTEM

2801.000 Scope of part.

Subpart 2801.1—Purpose, Authority, Issuance

2801.101 Purpose.

Subpart 2801.3—Agency Acquisition Regulations

2801.301 Policy.
2801.303 Codification and public participation.
2801.304 Agency control and compliance procedures.

Subpart 2801.4—Deviations From the Federal Acquisition Regulations and the Justice Acquisition Regulations

2801.403 Individual deviations.
2801.404 Class deviations.

Subpart 2801.6—Contracting Authority and Responsibilities

2801.601 General.
2801.601-70 Modifications of contracting officer's delegation.
2801.602-70 Contract Review Committee.

Subpart 2801.70—Contracting Officer's Technical Representative—Appointment, Limitation of Authority, and Termination

2801.7001-701 General.
2801.7001-702 Appointment.
2801.7001-703 Limitations.
2801.7001-704 Termination.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2801.000 Scope of part.

This part sets forth the basic policies and general information concerning the Department of Justice Acquisition Regulations (JAR).

Subpart 2801.1—Purpose, Authority, Issuance

2801.101 Purpose.

The JAR is established to provide procurement regulations that supplement the Federal Acquisition Regulation (FAR) (48 Code of Federal Regulations (CFR), Chapter 1). As such, the regulations contained in the JAR will include coverage of only those areas where agency implementation is required by the FAR, or where Department of Justice policies and procedures exist that supplement FAR coverage and directly affect the contractual relationship between the Department and potential or existing contractors. The JAR will not repeat or supplement FAR coverage where considered unnecessary. The JAR is not a complete system of regulations and must be used in conjunction with the FAR.

Subpart 2801.3—Agency Acquisition Regulations

2801.301 Policy.

(a) In accordance with FAR 1.301(b) and paragraph (c) of this section, the Department may issue acquisition regulations that supplement or implement the FAR.

(b) Subject to the authority in paragraph (c) of this section, the Department may also issue internal policies and procedures for the efficient administration of its procurement programs and to meet the specific needs of the agency.

(c) Regulations and internal policies and procedures under the JAR are issued in accordance with the lawful authority vested in the Attorney General. Authority to issue departmentwide acquisition policies and procedures has been delegated in 28 CFR 0.75(j) to the Assistant Attorney General for Administration (AAG/A), Justice Management Division (JMD).

(d) The JAR consists of:

(1) Departmentwide regulations which supplement or implement the FAR and which directly affect the contractual relationship between the Department's existing or potential contractors;

(2) Published and codified bureau regulations which supplement and implement the FAR and directly affect the contractual relationship;

(3) Published internally but not codified departmentwide policies and procedures which provide administrative guidance in the acquisition process in accordance with FAR 1.301(b); and

(4) Published internally but not codified bureau internal policies and procedures which provide administrative guidance in the acquisition process in accordance with FAR 1.301(b).

2801.303 Codification and public participation.

(a) Implementing and supplemental regulations issued under the JAR are codified under Chapter 28 of Title 48 of the CFR and conform to the numbering system specified in FAR 1.303.

(b) Departmentwide regulations (see 2801.301(d)(1)) for which there *is* a FAR counterpart are assigned part, subpart, section, or subsection numbers 2801 through 2869. Departmentwide material for which there is *no* FAR counterpart shall be codified using part, subpart, section, or subsection numbers 70 through 79. For example, the Department of Justice (DOJ) assigned chapter number in Title 48 is 28, Part 2870, Subpart 2801.70, Section 2801.370, or Subsection 2801.370–70.

(c) Bureauwide regulations (see 2801.301(d)(2)) are assigned Parts 2880 through 2899 under 48 CFR as follows:

2880—2881 Justice Management Division
2882—2883 Drug Enforcement Administration
2884—2885 Federal Bureau of Investigation
2886—2887 Federal Prison Industries
2888—2889 Office of Justice Programs
2890—2891 U.S. Marshals Service
2892—2893 Immigration and Naturalization Service
2894—2895 Bureau of Prisons
2896—2899 [Reserved]

(d) Public participation in the development of the JAR, including subsequent significant amendments or revision, shall be provided by a notice in the **Federal Register**. Normally, at least 60 days will be provided for comments. In the event of urgency, regulations may be published in final form without an initial comment period. Such instances will be fully justified in the **Federal Register** notice and give invitation and consideration to comments received after publication within the time period specified in the notice.

2801.304 Agency control and compliance procedures.

(a) The AAG/A shall review and approve all departmentwide and bureauwide acquisition regulations prior to publication in the **Federal Register** to insure compliance with departmental policy and consistency with the FAR.

(b) The departmental Procurement Executive shall review and approve in writing all bureau unpublished internal acquisition policies and procedures prior to their implementation. A copy of the approved bureau policies and procedures will be provided to the Executive Secretary, Contract Review Committee.

Subpart 2801.4—Deviations From the Federal Acquisition Regulations and the Justice Acquisition Regulations

2801.403 Individual deviations.

(a) Individual deviations from the FAR affecting only one contract action shall be approved in advance by the DOJ Procurement Executive. Individual deviations from the JAR where the regulation or policy has departmentwide effect (see 2801.303(b)) shall also be approved in advance by the DOJ Procurement Executive.

(b) Individual deviations from bureauwide regulations codified in the JAR shall be approved by the bureau head or person designated by the bureau head. Such delegation shall not be lower than the chief of the contracting office (see definition under Subpart 2802.1).

(c) A copy of the approved deviation together with the justification shall be included in the contract file. In addition, approved deviations from the FAR shall be submitted by the approving official, together with the justification, to the FAR Secretariat in accordance with FAR 1.403.

2801.404 Class deviations.

All class deviations from the FAR or JAR (deviations affecting more than one contract action, including situations where multiple awards are made on one solicitation) must be approved by the AAG/A in accordance with the limitations contained in FAR 1.404(a).

Subpart 2801.6—Contracting Authority and Responsibilities

2801.601 General.

(a) Pursuant to 28 CFR 0.139(a), the authority vested in the Attorney General with respect to contractual actions is delegated to the following officials:

(1) Assistant Attorney General for Administration (for the offices, boards, and divisions (OBDs));

(2) Director, Federal Bureau of Investigation;

(3) Director, Bureau of Prisons;

(4) Commissioner, Federal Prison Industries;

(5) Commissioner, Immigration and Naturalization Service;

(6) Administrator, Drug Enforcement Administration;

(7) Director, Office of Justice Programs; and

(8) Director, U.S. Marshals Service.

(b) The contracting officer authority and responsibility delegated to the above officials may be redelegated to subordinate officials as necessary for the efficient and proper administration of the Department's procurement operations. Such delegated authority may expressly state that it carries the power of redelegation, but in no event will the power of redelegation be delegated at a level lower than the chief of the contracting office except as follows:

(1) Contracting authority delegated by: the Director, Bureau of Prisons; the Commissioner, Federal Prison Industries; and the Director, U.S. Marshals Service, to regional office heads and heads of offices of individual field installations may be further delegated to subordinate individuals at the respective regional offices and installations without power of redelegation.

(2) Contracting authority delegated by the Commissioner, Immigration and Naturalization Service to heads of regional offices may be further delegated to (i) subordinate individuals to provide supply support for the

regional office, without power of redelegation and (ii) heads of district and/or sector offices who may redelegate such authority to subordinate individuals without power of further redelegation.

(c)(1) Contracting authority to other than those positions expressly identified in paragraphs (a)(1) through (8) of this section shall be redelegated only to subordinate individuals who:

(i) Are actively engaged in procurement; and,

(ii) Must function as contracting officers in the performance of their duties.

(2) Redelegations shall be made in accordance with the qualification requirements of FAR 1.603. However, authority to make individual small purchases by the interest funds (petty cash) method (FAR Subpart 13.4), to place BPA calls (FAR Subpart 13.4), and to use Standard Form 44 (FAR 13.505–3), may be delegated to subordinate individuals not actively engaged in procurement provided:

(i) That the office(s) they serve would otherwise be without supply support for their immediate needs; and,

(ii) That they have been adequately instructed in the regulations concerning small purchases.

(3) The redelegation of contracting authority directly to specific persons without regard for intermediate organizational levels only establishes authority to represent the Government in its commercial business dealings. It is not intended to affect the organizational relationship between the contracting officers and higher administrative and supervisory levels in the performance of their duties.

(d) Delegations to other than those positions expressly identified in paragraph (a) of this section shall be made only to individuals. Delegations, whether to individuals or by positions, shall be in writing and shall specifically state the scope and limitation of the delegated contractual authority. A copy of each delegation shall be forwarded to the AAG/A.

(e) When exercising delegated contracting authority a designated employee shall be identified as the contracting officer and shall function within the limits prescribed by law, the FAR, and the JAR.

(f) A contracting officer shall maintain evidence of his delegation and scope of authority and while functioning as a contracting officer shall make such evidence available upon request by anyone.

2801.601–70 Modifications of contracting officer's delegation.

Delegation documents shall not be modified. To effect modification the current delegation shall be revoked and a new delegation issued.

2801.602–70 Contract Review Committee.

Prior to execution of a contract the contracting officer will forward the proposed contract to the Department's Contract Review Committee in accordance with the dollar thresholds and other criteria contained in departmental orders. The Department's Contract Review Committee procedures are applicable to all organizational elements (OBDBs) of the Department with the exception of the Federal Bureau of Investigation (FBI). The FBI will perform a preaward contract review function on a bureau level in accordance with applicable regulations.

Subpart 2801.70—Contracting Officer's Technical Representative—Appointment, Limitation of Authority, and Termination

2801.7001–701 General.

Contracting officers may select and appoint other departmental officials to act as authorized representatives in the monitoring and administration of a contract based on the technical, professional, and administrative qualifications of the individual. Such officials shall be designated as Contracting Officer's Technical Representatives (COTRs). In unusual cases and with adequate justification contracting officers may designate officials from other Federal Government agencies.

2801.7001–702 Appointment.

(a) The COTR shall be appointed, in writing, by the contracting officer either through inclusion in the contract or by separate document. Such appointment shall state the scope and limitations of the COTR's authority (see 2801.7001–703 of this part and the clause in Subpart 2852.201–70) and identify the contract(s) the representative will administer.

(b) Changes in the scope or limitations or authority shall be made in writing by amending the appointment document or by issuance of a new appointment.

(c) If appointment of the COTR is made by separate document, the contractor shall be promptly informed in writing of the individual appointed and the scope and limitations of the appointee's authority.

2801.7001–703 Limitations.

Each appointment of a COTR made by the contracting officer shall clearly state that the representative is not an authorized contracting officer and does not have the authority under any circumstances to:

(a) Award, agree to award, or execute any contract, contract modification, notice of intent, or other form of binding agreement;

(b) Obligate, in any manner, the payment of money by the Government;

(c) Make a final decision on any contract matter which is subject to the clause at FAR 52.233–1, Disputes; or,

(d) Terminate, suspend, or otherwise interfere with the contractor's right to proceed, nor direct any changes in the contractor's performance that are inconsistent with or materially change the contract specifications.

2801.7001–704 Termination.

Termination of the COTR's appointment shall be made in writing by the contracting officer and shall give the effective date of the termination. A copy of the notice shall be promptly forwarded to the contractor. A termination notice is not required when the COTR's appointment terminates upon expiration of the contract.

PART 2802—DEFINITIONS OF WORDS AND TERMS

2802.000 Scope of part.

Subpart 2802.1—Definitions

2802.102 Definitions.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2802.000 Scope of part.

This part defines words and terms commonly used in this regulation. Other terms are defined in the part or subpart with which they are particularly associated.

Subpart 2802.1—Definitions

2802.102 Definitions.

Throughout this regulation the following words and terms are used as defined in this subpart unless the context in which they appear clearly requires a different meaning, or a different definition is prescribed for a particular part or portion of a part.

(a) "Contracting activity" means an office, board, division, or bureau with the Department which has been delegated procurement authority to manage contracting functions associated with its mission or, as is the case with the Office of Justice Programs, which must adhere to the procurement policy of the Attorney General. These are:

(1) Bureau of Prisons;

(2) Drug Enforcement Administration;

(3) Federal Bureau of Investigation;

(4) Federal Prison Industries;

(5) Immigration and Naturalization Service;
(6) Justice Management Division;
(7) Office of Justice Programs;
(8) U.S. Marshals Service.

(b) "Head of the agency" (also called "agency head") means the Attorney General, Deputy Attorney General, AAG/A, or their "authorized representative," which means any person(s) or board (other than the contracting officer) authorized to act for the head of the agency.

(c) "Head of the contracting activity" means those officials identified in 2801.601(a) having responsibility for supervising, managing, and directing the operations of the contracting activities.

(d) "DOJ" means the Department of Justice.

(e) "JAR" means the Department of Justice Acquisition Regulations.

(f) "Chief of the contracting office" means that supervisory official who is directly responsible for supervising, managing, and directing the contracting operations of the agency or bureau.

(g) "OBD" means the offices, boards, and divisions within the Justice Department.

(h) "EOUSA" means the Executive Office of United States Attorneys.

(i) "Bureaus" means the procurement components managed by the Justice Department. (See "contracting activity" in this Subpart.)

(j) "JMD" means the Justice Management Division.

(k) "USAO" means United States Attorneys' Offices.

(l) "DOJ/PE" means Departmental Procurement Executive.

(m) "BPE" means Bureau Procurement Executive.

PART 2803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 2803.1—Safeguards

2803.101–3 Agency regulations.

Subpart 2803.2—Contractor Gratuities To Government Personnel

2803.203 Reporting suspected violations of the Gratuities Clause.
2803.203–70 Agency reporting procedures.
2803.408 Evaluation and review of the SF 119.
2803.502 Subcontractor kickbacks.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2803.1—Safeguards

2803.101–3 Agency regulations.

The DOJ regulations governing Standards of Conduct are contained in 28 CFR Part 45. Agency authorized exceptions to FAR 3.101–2 are contained in 28 CFR 45.735–14.

Subpart 2803.2—Contractor Gratuities To Government Personnel

2803.203 Reporting suspected violations of the Gratuities Clause.

2803.203–70 Agency reporting procedures.

(a) DOJ personnel shall report suspected violations of the Gratuities clause (FAR 52.203–3) to the contracting officer or chief of the contracting activity in writing. The report shall clearly state the circumstances surrounding the incident, including the nature of the gratuity, the behavior or action the gratuity was to influence, and the persons involved. The Contracting officer, after review, shall forward the report along with his or her recommendations regarding the treatment of the violation in accordance with FAR 3.204(c) to the head of the contracting activity or his designee.

(b) The head of contracting activity or his designee shall determine whether adverse action against the contractor in accordance with FAR 3.204(c) should be taken. In reaching a decision, the head of the contracting activity or designee shall consult with contracting activities legal advisor or other official in the Department. Prior to taking any action against the contractor the head of the contracting activity or designee shall allow the contractor the opportunity to present opposing arguments in accordance with FAR 3.204.

(c) If the report of the suspected violation alleges that a gratuity was not only offered but also accepted by a Department employee, a copy of the report shall be forwarded by the head of the contracting activity or designee to the DOJ Office of Professional Responsibility (see 28 CFR 0.39).

2803.408 Evaluation and review of the SF 119.

(a) The contracting officer shall review and evaluate the SF 119 and all related information in accordance with FAR 3.408.

(b) The contracting officer's documentation of the evaluation, conclusions, and any proposed actions shall be reviewed and approved at a level above the contracting officer with the concurrence of the agency's procurement counsel.

2803.502 Subcontractor kickbacks.

Suspected violations of the Anti-Kickback Act (41 U.S.C. 51–54) shall be reported by the contracting officer to the contracting activity's procurement counsel who will then advise the contracting officer of appropriate action.

PART 2804—ADMINISTRATIVE MATTERS

Sec.
2804.000 Scope of part.

Subpart 2804.4—Safeguarding Classified Information Within Industry

2804.402 General.
2804.403 Responsibilities of contracting officers.

Subpart 2804.6—Contract Reporting

2804.601 Federal Procurement Data System.

Subpart 2804.8—Contract Files

2804.800 Scope of subpart.
2804.803–70 Contents of contract files.

Subpart 2804.70—Ratification of Unauthorized Contract Awards

2804.70 Ratification of unauthorized contract awards.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2804.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract security, reporting, and files.

Subpart 2804.4—Safeguarding Classified Information Within Industry

2804.402 General.

Classified acquisitions or contracts which require access to classified material, as defined in FAR 4.401, for their performance shall be subject to the policies, procedures, and instructions contained in departmental regulations and shall be processed in a manner consistent with those regulations.

2804.403 Responsibilities of contracting officers.

For proposed solicitations and contracts which may require access to classified material or where guard services are assigned to safeguard departmental activities in possession of classified information, the contracting officer will consult with the COTR and the Director, Security Staff to determine the appropriate security measures to safeguard such material and information.

Subpart 2804.6—Contract Reporting

2804.601 Federal Procurement Data System.

(a) Federal Procurement Data System (FPDS) reports shall be submitted to the Departmental Procurement Executive within thirty days after the close of quarters one through three, and within forty-five days of the close of the fourth quarter in a fiscal year. Specific preparation procedures are contained in

the FPDS Reporting Manual and the Product and Service Code Manual.

(b) Procurement components managed by DOJ are directed to designate and provide the name, office, mailing address, and telephone number of the individual who will provide day-to-day operational contact within that component for the implementation of the FPDS. Changes and updates will be forwarded to the DOJ Procurement Executive within thirty days after they occur. It is the responsiblity of the bureau contact to ensure that *all* actions are reported and submitted to the DOJ Procurement Executive in a timely manner and that *all* statistics and reports are current.

Subpart 2804.8—Contract Files

2804.800 Scope of subpart.

This subpart prescribes requirements for establishing and maintaining contract files.

2804.803-70 Contents of contract files.

(a) It is the policy of the Department that all contract files be maintained in two folders. One folder shall contain all required preaward documents. The other shall contain all required award and contract administration documents.

(b) The preaward contract file shall consist of all required preaward documents as well as an Invitation for Bids (IFB) preaward file checklist or a Request for Proposals (RFP) preaward checklist.

(1) The IFB preaward file checklist:

Tab No.	Document	In File	N/A
	Flap A		
I	Solicitation Document		
II	Amendments (FAR 14.208)		
III	Supervisory Solicitation Review (FAR 14.202-6).		
	Flap B		
1	Requisition (DOJ Order 2320.1)		
2	Contract Status Record (PCS Instruction 8).		
3	Presolicitation Approvals:		
	AIS (DOJ Order 2830.1)		
	Micrographics (DOJ Order 2780.1).		
	Dept. of Labor Wage Determination FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-4.1004-1).		
	Requisitioner		
	Other:		
4	Determinations and Findings:		
	Negotiation after Advertising (FAR 15.214).		
	Cancellation after Opening (FAR 14.404-1).		
	Type of Contract:		
	Requirements (FAR 16.503)		
	Indefinite Quantity (FAR 16.504)		
	Use of Options (FAR 17.205 and 206).		
	Set-Aside for S/B, LSA (FAR 19.501(b) & 20.201).		
	Liquidated Damages (FAR 12.202(b)).		
	Performance Bond (FAR 28.103-2).		
	Bid Samples (FAR 14.202-4(f))		
	Descriptive Literature (FAR 12.202-5(C).		
	Other:		
5	Synopsis (FAR 5.201): Pre-Solicitation Notice—Construction (FAR 36.302).		
6	Source List (FAR 14.205-1)		
7	Solicitation Requests		
8	Declination to Offer		
9	Clarification of Solication (requests and responses).		
10	Notice of Cancellation Before Opening (FAR 14.209).		
	Flap C		
11	Abstract of Bids-SF 1409 (FAR 14.403).		
12	Notice of Late Bids (FAR 14.304-2 and 304-3).		
13	Notice to Reject All Bids (FAR 14.404-3).		
14	Minor Informalities and Verification of Bids (FAR 14.405 and 406).		
15	Mistakes in Bids Before Award (FAR 14.406).		
16	Technical Evaluation—Brand Name or Equal.		
17	Determination of Price Reasonableness (FAR 14.407-2).		
18	Determination of Responsibility (FAR 9.104-1).		
19	Documentation of Award (formerly SF 1036) (FAR 14.407-2).		
20	Miscellaneous Correspondence		
	Flap D		
21	Pre-Award Approvals: EEO Compliance Clearance (FAR 22.805).		
	Other:		
22	Supervisory Review (PCS Instruction 1).		
23	(Legal Review (AG Order 929-81).		
24	Contract Review Committee (AG Order 929-81).		
	Flap E		
25	Protests Before Award (FAR 14.407-8).		
26	FOIA Requests Before Award (FAR 24.2)		
	Flap F		
27	Unsuccessful Bids		
28	Successful Bid(s)		
29	Notice to Unsuccessful Bidders (FAR 15.1001(c)).		

(2) The RFP preaward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
I	Solicitation Document		
II	Amendments		
III	Supervisory Solicitation Review		
	Flap B		
1	Requisition (DOJ Order 2320.1)		
2	Contract Status Record (PCS Instruction 8).		
3	Presolicitation Approvals:		
	Micrographics (DOJ Order 2780.1).		
	AIS (DOJ Order 2830.1)		
	Consultant Services (DOJ Order 1304.3).		
	Dept. of Labor Wage Determination (FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-4.1104).		
	SBA 8(a) Authority (FAR 19.8)		
	Requisitioner		
	Other:		
4	Determinations and Findings: Negotiation (FAR 15.2).		
	Type of Contract:		
	Cost Reimbursable (FAR 16.301-3).		
	Requirements Type (FAR 16.503).		
	Indefinite Quantity Type (FAR 16.504).		
	Time and Materials Type (FAR 16.601(c)).		
	Letter Contract (FAR 16.603-3)		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
	Use of Options (FAR 17.205 and 206).		
	Set-Asides for S/B and LSA (FAR 19.501(b) & 20.201).		
	Liquidated Damages (FAR 12.202(b)).		
	Performance Bond (FAR 28.103-2).		
5	Sources Sought Synopsis:		
	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
6	Source List or Sole Source Just (FAR 15.105).		
7	Solicitation Requests		
8	Declination to Offer		
9	Correspondence—Inquiries and Responses.		
	Flap C		
10	Notice to Late Offerors (FAR 15.412(d)).		
11	Clarifications of Offers (FAR 15.601)		
	Questions		
	Responses		
12	Technical Evaluation Report (FAR 15.606(b)).		
13	Successful Proposal (including Best & Final Offer).		
14	Cost/Price Analysis Including Audit (FAR 15.805).		
15	Competitive Range/Notice to Offeror (FAR 15.609 and 15.611).		
16	Notice of Unacceptable Proposal (FAR 15.1001(b)).		
17	Miscellaneous Correspondence		
	Flap D		
18	Summary of Negotiations (FAR 15.808).		
19	Pre-award Approvals:		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
20	Supervisory Review (PCS Instruction 1).		
21	Legal Review (AG Order 929-81).		
22	Contract Review Committee (AG Order 929-81).		
	Flap E		
23	Debriefing Report (FAR 15.1002)		
24	Protests Before Award (FAR 14.407-8).		
25	FOIA Requests Before Award (FAR 24.2).		
26	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		

Tab No.	Document	In file	N/A
	Flap F		
27	Unsuccessful Proposals (including Best & Final Offers) (file in separate folders, if necessary).		

(c) The contract award file shall consist of all required award and contract administration documents as well as an award checklist as follows:

Contract File Award Checklist

Contractor: _____
Requirement: _____
Contract No.: _____
Contract Type: _____
Solicitation No.: _____

Document	Date filed	Cont. Spec. initials
Flap A		
Item No.:		
I. Contract Document/Modifications		
II. FPDS, Individual Contract Action Report (SF-279 and/or SF-279A)		
III. PCS Data System Input Forms		
IV. Award Distribution Checklist		
V. Award Checklist		
Flap B		
Item No.:		
1. Supporting Papers for Basic Contract		
Award Synopsis (FAR 5.301)		
Performance Bond (FAR 28.103 and 53.301-25)		
Subcontracting Report (SF-294)		
2. Protests After Award (FAR 14-407-8)		
3. FOIA Requests After Award		
4. Transmittal/Acknowledgement Letters		
Flap C		
Item No.: 5. Supporting Papers for Modifications		
Flap D		
Item No.: 6. Vouchers and Related Correspondence		
Flap E		
Item No.: 7. Contractor's Reports		
Flap F		
Item No.: 8. Contract Close Out Checklist (Administrative Correspondence)		

I certify that this file has been reviewed and the contract is adequate for award:

Contract Specialist

DATE: _____
SIGNATURE: _____

Reviewer

TITLE: _____
DATE: _____
SIGNATURE: _____

Subpart 2804.70—Ratification of Unauthorized Contract Awards

2804.701 Ratification of unauthorized contract awards.

(a) Execution of otherwise proper contracts made by individuals without contracting authority or by contracting officers in excess of the limits of their delegated authority may be later ratified. To be effective such ratification must be in the form of a written document clearly stating that ratification of a previously unauthorized act is intended and must be signed by a person authorized to ratify such acts. Generally, such ratification may be made only by an official on whose behalf the contract was made, and then only: (1) If he could have given authority to enter into the contract before it was awarded; and (2) if such official still has the power to do so at the time of ratification.

(b) In each instance where an unauthorized award occurs (including small purchases), whether ratified or not, the head of the procuring activity or his designee shall report the following data to the Assistant Attorney General for Administration:

(1) Circumstances regarding the unauthorized contract;

(2) Vendor;

(3) Product or service;

(4) Value; and,

(5) Action taken by the procuring activity.

PART 2805—PUBLICIZING CONTRACT ACTIONS

Subpart 2805.1—Dissemination of Information

2805.101 Methods of disseminating information.

Subpart 2805.5—Paid Advertisements

2805.502 Authority.
2805.503-70 Procedures.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2805.1—Dissemination of Information

2805.101 Methods of disseminating information.

Each contracting activity in the Department shall designate an area for public display of solicitation notices in accordance with FAR 5.101(a)(2).

Subpart 2805.5—Paid Advertisements

This subpart provides policies and procedures for the procurement of paid advertising as covered by 5 U.S.C. 302, 44 U.S.C. 3701, 3702, and 3703, and Title 7, Chapter 5-25.2, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

2805.502 Authority.

(a) Pursuant to 28 CFR 0.140 the authority to approve publication of paid advertisements has been delegated to the officials listed in 2801.601(a). This authority may be redelegated as considered appropriate.

(b) The authority to approve the publication of advertisements, notices, or proposals pursuant to litigation has been delegated by memorandum by the AAG/A to the heads of the OBDs with the power of redelegation.

(c) Authority to purchase paid advertising must be granted in writing by an official delegated such authority. No advertisement, notice, or proposal will be published prior to receipt of advance written authority for such publication. No voucher for any such advertisement or publication will be paid unless there is presented, with the voucher, a copy of such written authority. Authority shall not be granted retroactively.

2805.503-70 Procedures.

(a) Agency officials exercising the authority delegated by 2805.502(a) and (b) shall do so in accordance with the procedures set forth in FAR 5.503 and those set forth below.

(b) Requests for procurement of advertising shall be accompanied by written authority to advertise or publish which sets forth justification and includes the names of newspapers or journals concerned, frequency and dates of proposed advertisements, estimated cost, and other pertinent information.

(c) Paid advertisements shall be limited to publication of essential details of invitations for bids and requests for proposals including those for the sale of personal property and for the recruitment of employees.

(d) Standard Form 1143, Advertising Order, shall be used for procurement and payment of paid advertising. Procedures for payment of vouchers are contained in Title 7, Chapter 5-25.2, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

SUBCHAPTER B—ACQUISITION PLANNING

PART 2807—ACQUISITION PLANNING

Subpart 2807.1—Acquisition Plans

2807.102 Policy.
2807.103 Agency-head responsibilities.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2807.1—Acquisition Plans

2807.102 Policy.

(a) In accordance with the Office of Federal Procurement Policy, Policy Letter 81-1, Executive Order 12352, and in compliance with FAR 7.102, procurement activities of DOJ shall coordinate planning of resource utilization in conducting procurement

programs. Such planning shall accomplish the following objectives:

(1) Provide for early planning of procurement actions to allow ample time for conducting competitive solicitations and to avoid unnecessary urgent requirements that generally restrict competition.

(2) Provide for a more even flow of procurement requests to procurement operations throughout a fiscal year, better using personnel resources and avoiding wasteful and hasty year-end spending.

(3) Identify identical or like requirements that can be combined under one solicitation, thereby saving manpower resources and financial resources through quantity discounts.

(b) Acquisition planning shall be accomplished in accordance with the Department's Advance Procurement Planning System. Approval for alterations of systems or DOJ forms must be obtained from the DOJ/PE.

2807.103 Agency-head responsibilities.

The Department's Advanced Procurement Planning System provides that the head of an office, board, or division and the heads of the bureaus shall appoint an official to coordinate acquisition planning. The coordinator shall work with the office, board division, or bureau procurement representative in developing an approved procurement plan.

PART 2808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2808.000 Scope of part.

Subpart 2808.1—Excess Personal Property

2808.102-80 Procedure.

Subpart 2808.4 Ordering From Federal Supply Schedules (FSS)

2808.400-70 Renewals of purchase orders issued under Federal Supply Schedules.
2808.401-70 Use of General Services Administration (GSA) Self-Service Stores.

Subpart 2808.8—Acquisition of Printing and Related Supplies

2808.802-70 Procedure.

Subpart 2808.11—Leasing of Motor Vehicles

2808.1102-70 Procedure.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2808.000 Scope of part.

This part deals with the acquisition of supplies and services from or through Government supply sources.

Subpart 2808.1—Excess Personal Property

2808.102-80 Procedure.

All requisitions for supplies shall be submitted to the Chief, Operations Section, Administrative Services Staff, for review to determine whether or not the requirement can be fulfilled by using excess personal property available to the Department, prior to submitting the requisition to Procurement Service.

Subpart 2808.4—Ordering From Federal Supply Schedules (FSS)

2808.400-70 Renewals of purchase orders issued under Federal Supply Schedues.

(a) To expedite renewals of purchase orders issued against FSS contracts OBD's and the EOUSA are encouraged to submit annually only one requisition which would cover all renewals for a given vendor's GSA schedule contract.

(b) In preparing renewals, consolidate items of identical make and model number, indicate aggreate quantity, and segregate as to lease renewals and maintenance renewals for DOJ equipment. Systems are not to be aggregated, but should be listed as a separate line item on the requisition and shall not be split.

2808.401-70 Use of General Services Administration (GSA) Self-Service Stores.

Policy and procedures for the use of the GSA self-service stores are contained in departmental orders.

Subpart 2808.8—Acquisition of Printing and Related Supplies

2808.802-70 Procedure.

Contracting officers shall obtain written approval from the Director, Information Systems Staff (the central printing authority designated to serve as liaison between the Department and the Joint Committee on Printing) before acquiring any of the items defined in FAR 8.801.

Subpart 2808.11—Leasing of Motor Vehicles

2808.1102-70 Procedure.

Prior to preparing solicitations for the leasing of motor vehicles, contracting officers shall ensure that the requisition for such lease has been reviewed and approved by the Chief Operations Section, Administrative Services Staff.

PART 2809—CONTRACTOR QUALIFICATIONS

Subpart 2809.4—Debarment, Suspension, and Ineligibility

2809.400 Scope of subpart.
2809.401 Applicability.
2809.402 Policy.
2809.403 Definitions.
2809.405 Effects of listing.
2809.405-1 Continuation of current contracts.
2809.405-2 Restrictions on subcontracting.
2809.470 Responsibilities.
2809.471 Debarment and suspension decision-making process.

Subpart 2809.5—Organizational Conflicts of Interest

2809.503 Waiver.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2809.4—Debarment, Suspension, and Ineligibility

2809.400 Scope of supart.

This subpart:

(a) Provides for DOJ policies and procedures in making debarment and suspension decisions and assigns responsibilities in making these decisions.

(b) Establishes the DOJ Procurement Executive, JMD as the debarring and suspending official in DOJ.

Note.—FAR 9.4 does not provide procedures for declaring Government contractors ineligible. The GSA will list contractors who are ineligible pursuant to statutory, Executive Order, or regulatory authority other than FAR Subpart 9.4. This FAR and JAR subpart does prescribe policies regarding the effect of such listing.

2809.401 Applicability.

This subpart is applicable to all contracting activities in the offices, boards, divisions, and bureaus (OBDBs) of DOJ and for contracts involving personal property and non-personal services including construction and leases of real property. This subpart does not apply to grants or other forms of Federal assistance.

2809.402 Policy.

Debarment and suspension actions are a means to ensure that agencies contract only with responsible business concerns and individuals. Contracting activities shall:

(a) Consider debarment or suspension of a contractor when cause is shown as listed under FAR 9.406-2 (debarment) and FAR 9.407-2 (suspension).

(b) Consult the GSA Consolidated List of Debarred, Suspended, or Ineligible Contractors prior to soliciting offers from, awarding contracts to, renewing or extending contracts, or consenting to subcontracts with contractors on the GSA Consolidated List. Exceptions will be granted only for compelling reasons and in accordance with FAR 9.405(a).

2809.403 Definitions.

The definitions of the principal terms used in this subpart, i.e., debarment, suspension, ineligible, contractor, and debarring and suspending official, are the same as in FAR 9.403.

2809.405 Effects of listing.

2809.405-1 Continuation of current contracts.

In accordance with FAR 9.405-1, contracting activities may continue contracts or subcontracts in existence at the time a contractor is suspended or debarred unless it is determined that termination of the contract is in the best interest of the Government. In making this determination contracting activities shall consider the seriousness of the act or omission leading to the debarment or suspension, the effect of debarment or suspension on the contractor's ability to continue operations, and the Department's ability to safeguard its interests and receive satisfactory performance and for compelling reasons and in accordance with FAR 9.405(a).

2809.405-2 Restrictions on subcontracting.

FAR 9.405-2 provides that agencies shall not consent to subcontracts with debarred, suspended, or ineligible contractors where such consent is required by the contract. FAR Subpart 44.2, Consent to Subcontracts, provides guidance on when to include a clause in prime contracts for review of subcontracts.

2809.470 Responsibilities.

(a) Contracting activities in the OBDBs shall:

(1) Be familiar with the policies and procedures concerning debarment, suspension, and ineligibility as set forth in FAR Subpart 9.4 and this subpart.

(2) Provide and effective system within their activity to ensure that contracting staff consult the GSA Consolidated List of Debarred, Suspended, or Ineligible Contractors prior to soliciting offers from, awarding or extending contracts to, or consenting to subcontracts with contractors on the list.

(3) Consider recommending debarment or suspension of a contractor when cause exists under FAR 9.406-2 (debarment) and FAR 9.407-2 (suspension). Existence of cause for debarment or suspension does not necessarily require that the contractor be debarred or suspended. Contracting activities must consider the seriousness of the contractor's acts or omissions and any mitigating circumstances. Contracting staffs should consult with their appropriate legal counsel prior to making a decision to initiate debarment or suspension proceedings. If a determination is made that available facts do not justify beginning debarment or suspension proceedings, the file should be documented accordingly. This determination should be subject to reconsiderations if new information or additional fact-finding so justifies.

(4) Immediately prepare a notice in accordance with FAR 9.406-3(a) (debarment) or FAR 9.407-3(c) (suspension) if a decision is made to initiate debarment and/or suspension of a contractor. The draft notice along with the administrative file containing all relevant facts and analysis shall be forwarded to the DOJ Procurement Executive, as the debarring and suspending official, following review by the activity's legal counsel and procurement head.

(b) The DOJ Procurement Executive, as the debarring and suspending official, shall:

(1) Review the notice and administrative file for sufficiency and provide for review by other DOJ officials as considered appropriate.

(2) Give the contractor prompt notice of the proposed debarment or suspension if he or she so decides, in accordance with FAR 9.406-3(c) (debarment) or FAR 9.407-3(c) (suspension).

(3) Direct additional fact-finding as necessary when material facts are in dispute. Fact-finding over disputed issues of fact in debarment and suspension proceedings may be conducted by the General Services Administration Board of Contract Appeals (GSBCA) in accordance with the signed agreement between the Department and GSBCA if requested by either the government or the contractor.

(4) Notify the contractor of the final decision to debar or suspend, including a decision not to debar or suspend, in accordance with FAR 9.406-3(c) (debarment) and FAR 9.407-3(c) (suspension).

(c) Other responsibilities of the DOJ Procurement Executive.

(1) Provide notification to GSA within five working days after debarring or suspending a contractor or modifying or rescinding such an action of the information set forth in FAR 9.404(c).

(2) Maintain agencywide records of debarred or suspended contractors in accordance with FAR 9.404(c)(4).

(3) In accordance with FAR 9.405(a), approve determinations submitted by contracting activities establishing compelling reasons to contract or consent to a subcontractor with a contractor on a current debarred or suspended list. (DOJ officials do not have the authority to make exceptions for contractors declared ineligible.)

(4) Provide interim notification to the OBDBs of contractors debarred or suspended pending inclusion into the GSA Consolidated List and coordinate among the OBDBs annual subscriptions to the GSA list.

2809.471 Debarment and suspension decision-making process.

Debarment or suspension of a contractor, whether a firm on an individual, is a serious action. In order to ensure fairness and an opportunity for the affected contractor to present arguments and provide information in opposition to a proposed debarment or suspension, the procedures outlined in FAR 9.406-3 (debarment) and FAR 9.407-3 (suspension) will be strictly adhered to in the decision-making process.

Subpart 2809.5—Organizational Conflicts of Interest

2809.503 Waiver.

(a) Waiver authority granted under FAR 9.503 is delegated by this Subpart to the DOJ officials listed in 2801.601(a). This authority may not be redelegated.

(b) Requests for waivers shall be prepared by the contracting officer and shall include the following:

(1) A complete description of the organizational conflict;

(2) A discussion of why the conflict cannot be avoided, neutralized, or mitigated in accordance with the procedures in FAR 9.507;

(3) The benefits to the Government and to the contractor in approving the waiver; and,

(4) The potential or actual negative or detrimental effects of approving the waiver.

PART 2810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

2810.000 Scope of part.
2810.004-70 "Brand name of equal" purchase description.
2810.007 Deviations.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2810.000 Scope of part.

This part prescribes policies and procedures for using specifications, standards, and other purchase descriptions in the acquisition process.

2810.004-70 "Brand name or equal" purchase description.

(a) A "brand name or equal" purchase description shall be used only under the conditions listed below and in FAR

10.004(b)(3) and in accordance with the policies and procedures in this Subpart.

(1) When a suitable formal Government specification, standard, or industry standard approved for agency use is not available and a purchase description meeting the general requirements of FAR 10.004 cannot be prepared because:

(i) Construction or composition of the product to be procured is too technically involved;

(ii) Public exigency precludes timely development; or,

(iii) It is impractical or uneconomical to prepare a purchase description.

(2) When purchasing items for authorized resale.

(b) The term "brand name product" means a commercial product described by a brand name and make or model number or other appropriate nomenclature by which that product is offered for sale to the public by the particular manufacturer, producer, or distributor. When using a "brand name or equal" purchase description all known acceptable brand name products should be listed in the solicitation. When a "brand name or equal" purchase description is used to describe a primary item or major component, prospective offerors must be given the opportunity to offer products other than those specifically referenced by brand name, if those other products will meet the needs of the Government in essentially the same manner as those referenced as brand name in the solicitation. If modifications to standard products are anticipated to meet the purchase description requirements, a minimum of 30 calendar days shall be allowed between the issuance of the solicitation and the opening of bids or receipt of proposals, provided that periods of less than 30 calendar days may be set only in cases where one of the statutory exceptions to publicizing the procurement in the *Commerce Business Daily* applies and when the contracting officer has reason to believe that bidders can bid effectively on the basis of a shorter period.

(c) "Brand name or equal" purchase descriptions should set forth those salient physical, functional, or other characteristics of the products referenced as brand name which are essential to the Government, and should contain the following information to the extent available, and include such other information as is necessary to describe the item required:

(1) Complete common generic identification of the required item;

(2) Applicable make, model, or catalog number for each brand name product referenced and identification of the commercial catalog in which it appears; and,

(3) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if possible).

(d) In "brand name or equal" solicitations the product referenced as "brand name" must be regularly offered for sale to the public.

(e) When a "brand name or equal" purchase description is used the contracting officer shall note in the contract file the reasons for using this purchase description.

(f)(1) When a "brand name or equal" purchase description is used in a solicitation, except for component parts or accessories of an end item for which the contracting officer determined that the application of the following clause would be impractical, the following clause shall be inserted after each item so described in the solicitation for completion by the offeror.

Bidding On:
Manufacturer's Name: _____
Brand: _____
No.: _____

(2) In addition, the clause set forth in Part 2852.210–70 entitled "Brand Name or Equal" shall be inserted into all solicitations for which this type of purchase description is used.

§ 2810.007 Deviations.

Heads of contracting activities are authorized to approve deviations and exceptions to specifications or standards listed in the Index of Federal Specifications and Standards when the exceptions listed in FAR 10.006 do not apply, in accordance with the reporting and other requirements of FAR 10.007. The Procurement Executive shall be notified, in writing, within 30 days of the approval of each deviation or exception approved.

PART 2812—CONTRACT DELIVERY OR PERFORMANCE

2812.000 Scope of part.

Subpart 2812.1—Extension of Delivery or Performance Schedules

2812.170 Policy.

Subpart 2812.2—Liquidated Damages

2812.270 Procedure.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2812.000 Scope of part.

This part prescribes policies and procedures relating to delivery or performance under contracts for supplies, services, and construction.

Subpart 2812.1—Extension of Delivery or Performance Schedules

2812.170 Policy.

It is the policy of DOJ to ensure that contract delivery schedules are reasonable, realistic, and meet the requirements of the acquisition. However, in some instances when the contractor fails to deliver in a timely manner, it may be necessary for the Government to allow the contractor to continue performance. Under these circumstances, if the delay is caused by conditions which would not be considered "excusable delays" (as defined in the clauses listed in FAR 52.249), the contracting officer must secure consideration for the Government's forbearance in extending the delivery schedule. In addition, delivery schedules should not be allowed to slip beyond two weeks without contracting officers taking all actions necessary to retain the Government's rights.

Subpart 2812.2—Liquidated Damages

2812.270 Procedure.

In the event it is desirable to make a remission of liquidated damages, assessed against a contractor for delayed performance, the contracting officer shall prepare a memorandum for the signature of the AAG/A and subsequent transmittal to the Comptroller General, which sets forth the rationale for the proposed remission of liquidated damages together with all pertinent background data upon which the recommendation that such damages be remitted to the contractor. This memorandum must be coordinated with the JMD Office of General Counsel prior to forwarding to the AAG/A for signature.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 2813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 2813.4—Imprest Fund

2813.403–80 Agency responsibilities.
2813.404–70 Conditions for use.

Subpart 2813.5—Purchase Orders

2813.505 Purchase order and related forms.
2813.505–2 Agency order forms in lieu of Optional Forms 347 and 348.
2813.505–370 Standard Form 44.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2813.4—Imprest Fund

2813.403–80 Agency responsibilities.

Regulations governing the operation and procedures of the imprest fund for the OBDs are contained in OBD internal regulations and Accounting Operations Instructions. Individuals delegated the authority to withdraw from the imprest fund are further subject to the limitations contained in their delegation memorandum.

2813.404–70 Conditions for use.

The Department of the Treasury has approved for OBDBs limitations on transactions of varying amounts depending on needs. These limitations are maintained in OBDB internal regulations and procedures.

Subpart 2813.5—Purchase Orders

2813.505 Purchase order and related forms.

2813.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

The JMD Form 422 is authorized for use in the OBDs as a substitute for Optional Form 347. Bureaus may prescribe an equivalent form to meet their needs subject to the approval of the head of the procuring activity and in accordance with FAR 13.505–2 and FAR 13.507, Clauses.

2813.505–370 Standard Form 44.

(a) Purchasing offices using the SF 44 will be responsible for instructing authorized users as to the limitations and procedures for use of the SF 44 as outlined in FAR 13.505–3.

(b) Since the SF 44 is an accountable form, a record shall be maintained of: serial numbers of the forms; to whom issued; and, the date issued. SF 44's shall be kept securely under lock and key to prevent unauthorized use. A reservation of funds shall be established to cover total anticipated expenditures prior to use of the SF 44.

PART 2814—FORMAL ADVERTISING

2814.000 Scope of part.

Subpart 2814.4—Opening of Bids and Award of Contract

2814.401 Receipt and safeguarding of bids.
2814.402 Opening of bids.
2814.406–370 Other mistakes disclosed before award.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2814.000 Scope of part.

This part prescribes requirements, policies, and procedures for the solicitation, evaluation, and award of contracts for supplies, services, and construction under the formal advertising method.

(Approved by the Office of Management and Budget under control number 1105–0028.)

Subpart 2814.4—Opening of Bids and Award of Contract

2814.401 Receipt and safeguarding of bids.

All bids, including amendments to Invitation For Bids, received before the time set for opening shall be kept secure, and shall remain unopened in locked safes.

2814.402 Opening of bids.

The contracting officer responsible for issuing the solicitation is also responsible for making all necessary arrangements for the opening and recording of bids in accordance with FAR 14.402.

2814.406–370 Other mistakes disclosed before award.

(a) The authority to make determinations under paragraphs (a), (b), (c), and (d) of FAR Subsection 14.406–3 is delegated to those individuals listed in Subpart 2801.6, Contracting Authority and Responsibility, section 2801.601. Such authority may be redelegated in accordance with FAR 14.406–3(e).

(b) Copies of all records, documentation, and determinations made with respect to mistakes in bids shall be kept in the contract file to which they pertain.

(c) The following procedures shall be followed when submitting doubtful cases of mistakes in bids to the Comptroller General for an advance decision.

(1) Requests for advance decisions submitted to the Comptroller General in cases of mistakes in bids shall be made by those individuals in paragraph (a) of this section with the authority to make determinations under this subpart.

(2) Requests for advance decisions shall be in writing, dated, signed by the requestor, addressed to the Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548, and contain the following:

(i) The name and address of the party requesting the decision;

(ii) A statement of the question to be decided, a presentation of all relevant facts, and a statement of the requesting party's position with respect to the question; and,

(iii) Copies of all pertinent records and supporting documentation.

PART 2815—CONTRACTING BY NEGOTIATION

Subpart 2815.1—General Requirements for Negotiation

2815.104 Authorization and approval.
2815.105–70 Competition.

Subpart 2815.3—Determinations and Findings To Justify Negotiation

2815.307 Signatory authority.

Subpart 2815.4—Solicitation and Receipt of Proposals and Quotations

2815.405 Solicitations for informational and planning purposes.
2815.408 Issuing solicitations.
2815.411 Receipt of proposals and quotations.

Subpart 2815.5—Unsolicited Proposals

2815.506 Agency procedures.

Supbart 2815.8—Price Negotiation

2815.803–70 General.
2815.804–370 Waiver of submission of certified cost or pricing data.
2815.805–570 Field pricing support.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2815.1—General Requirements for Negotiation

2815.104 Authorization and approval.

By Attorney General Order, the DOJ Contract Review Committee was established requiring review prior to award of all contracts that exceed applicable dollar thresholds.

2815.105–70 Competition.

Negotiated contracts, including small purchases over $1,000 (FAR 13.100), shall be awarded on the basis of competition to the maximum extent practicable. However, it is recognized that circumstances may exist that make competitive contracting neither feasible nor practicable. When the requiring activity recommends that only one source can fill a requirement, the requiring office shall prepare a fully documented justification for a noncompetitive acquisition.

(a) A written noncompetitive procurement justification, entitled Justification for a Noncompetitive Acquisition, that documents the facts and circumstances supporting a noncompetitive acquisition shall be submitted with the requisition or request for procurement action to the contracting officer on:

(1) All new acquisitions in excess of $1,000;

(2) All modifications to existing contracts which continue such contracts and increase the contract price and scope of work; and,

(3) Proposed contract awards that are a result of an unsolicited proposal.

(b) Justifications under paragraphs (a)(1), (2), and (3) of this section shall be documented by information based on substantial fact, shall provide a clear and complete discussion of the reasons that make competitive negotiation impractical or not feasible, and must be sufficient to permit an individual without technical competence in the area to follow the rationale. Each justification shall define the contract objective and contain a discussion of the essential capabilities, facilities, or other elements required to fulfill the contract objective. The discussion shall be followed by a description of the capabilities, facilities, or other credentials possessed by the proposed source and the extent to which those capabilities, facilities, or credentials are or are not possessed by other sources.

(c) The following factors shall be considered, as may be appropriate and ufpertinent to the particular procurement, in preparing the justification:

(1) *Continuation of Previous Effort.* State whether or not the requirement is a continuation of work previously performed by the proposed contractor (including pertinent background data and identity of the previous work by contract number) and detail as to why the award of such continuation of work to another contractor would require additional time, money, or duplication of effort to bring a new contractor up to the level of expertise of the incumbent. State what positive actions are being taken to enable competitive procurement of subsequent related requirements. If the previous procurement was noncompetitive, state what actions were taken to promote competition for the proposed procurement and the reasons why those actions have not resulted in the availablity of competition.

(2) *Technical Data and Information.* State whether or not drawings and specifications suitable for competition are available. If they are not available, state whether or not it is possible to develop them, explain the lead time and cost involved to obtain them, and state why the proposed contractor is best able to perform under these conditions.

(3) *Other Sources Considered.* State whether or not other sources were considered for the requirement, list the other sources considered, and state the degree of consideration given each and the particular capabilities each one lacks to fulfill the requirement.

(4) *Other Factors.* State why the proposed contractor is best able to fill the requirement and meet the required delivery schedule including such factors as:

(i) *Particular Capabilities.* State the capabilities of a highly specialized nature that the proposed contractor possesses that are vital to the proposed effort and that are so unique to the specific effort that they would exclude offering all other contractors in the same general field the opportunity to present their capabilities for evaluation competitively. State what personnel of the proposed contractor are considered experts in the particular field of effort and the basis therefor.

(ii) *Facilities and/or Specialized Equipment.* State the facilities and specialized equipment vital to the requirement that the proposed contractor possesses which are not available from other sources. State whether or not Government-owned equipment or facilities are involved and to what extent.

(iii) *Substantial Investment.* State whether the proposed contractor has made a substantial investment and the nature and estimated cost thereof which would have to be duplicated at Government expense by another source entering the field.

(iv) *Patents, Data, Copyrights.* Identify the patents, copyrights, or proprietary rights which the contractor holds which preclude award of the work to any other source. State what technical data the proposal contains that is not available from another source and which make it not feasible or practicable to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the proposal.

(v) *Phasing of Procurement.* State whether the basic rationale of the prior stage of the procurement, if any, is applicable to the follow-on stage; if not, state whether competitive procurement is now possible. State what other factors exist which justify noncompetitive procurement of the follow-on work.

(d) *Unsolicited Proposals.* (Also see Subpart 2815.5).

(1) The receipt of an unsolicited proposal from a source does not, in itself, constitute a justification for noncompetitive procurement from that source. It may be possible that there are other potential sources with an equally suitable approach which could accomplish the same end results.

(2) A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiation on a noncompetitive basis with the source that submitted the proposal. When an unsolicited proposal has received a technical recommendation for acceptance and it is determined that the substance of the proposal is not available without restriction from another source, or competition is otherwise precluded, procurement may be made on a noncompetitive basis. The program office sponsoring the procurement shall support its recommendation with a justification.

(3) The justification for noncompetitive procurement shall include the applicable requirements of paragraph (c) of this section and shall include, but not necessarily be limited to, one or more of the following findings and shall fully explain the circumstances thereof.

(i) The proposal was selected on the basis of its overall merit, cost, and potential contribution to the program objectives of the bureau or office after thorough evaluation.

(ii) The proposal contains technical data and offers unique capabilities that are not available from another source and it is not feasible or practicable to define the Government's requirements in such a way as to avoid the necessity of using technical data contained in the proposal.

(iii) The proposal is submitted in response to a program for which there is specified statutory authorization to procure on a noncompetitive basis.

(iv) *Signature of Author.* Each justification for noncompetitive procurement action shall bear the original signature of the author, the date of signature, the typed name of the author, and the typed title of the author (exact capacity in which he/she is serving on the date of signature).

(e) *Review and Approval.* The justification for noncompetitive procurement shall be reviewed and approved as follows:

(1) For new procurements or contract modifications which are estimated not to exceed $25,000, the justification shall require written approval by the contracting officer.

(2) For new procurements or contract modifications which are estimated not to exceed $100,000, the justification shall require approval by the contracting officer and concurrence at one level above the contracting officer.

(3) For new procurements or contract modifications estimated to exceed $100,000, the justification shall require the written concurrence by the head of the procuring activity as defined in 2802.1 or the authorized official delegated such responsibility by the head of the procuring activity.

(4) The Justification for a Noncompetitive Acquisition shall not relieve the contracting officer of any other requirement for a determination

and finding in accordance with FAR 15.3.

(5) Contracting activities with the approval of the head of the contracting activity may devise a simplified format for noncompetitive acquisitions under the small purchase limitation established in FAR Part 13 or as subsequently revised or amended by statute or regulation and in accordance with Departmental regulations.

(6) The provisions of this subsection, 2815.105–70, do not apply to acquisitions from other Government agencies including contracts executed with the Small Business Administration under section 8(a) of the Small Business Act or where the agency is required by statute to award a contract to a specified source such as awards to the Blind or Severely Handicapped or Prison Industries.

Subpart 2815.3—Determinations and Findings To Justify Negotiation

2815.307 Signatory authority.

When a Determination and Finding (D&F) is required, it shall be signed by the appropriate departmental official in accordance with the signatory authority specified in FAR 15.307 or under the negotiation authorities listed in FAR 15.2. Signatory authority may be redelegated where FAR 15.307 provides the authority to do so, and in accordance with agency and bureau regulations.

Subpart 2815.4—Solicitation and Receipt of Proposals and Quotations

2815.405 Solicitations for informational and planning purposes.

When a solicitation for informational or planning purposes is to be issued, the contracting officer shall make a written determination that such solicitation is justified. This determination shall be approved at one level above the contracting officer. Such approval shall be signified by the signature of the appropriate official on the determination.

(Approved by the Office of Management and Budget under control number 1105–0028.)

2815.408 Issuing solicitations.

Solicitations involving classified information shall be handled in accordance with the policies and procedures contained in departmental and other OBDB prescribed policies and regulations that supplement Departmental regulations. Such supplemental regulations must have the prior approval of the AAG/A before implementation in accordance with the Departmental regulations.

(Approved by the Office of Management and Budget under control number 1105–0028.)

2815.411 Receipt of proposals and quotations.

Classified proposals and quotations shall be handled in accordance with agency regulations and any supplemental directives or orders implemented by the OBDBs.

Subpart 2815.5—Unsolicited Proposals

2815.506 Agency procedures.

(a) Each contracting activity of the Department as defined in 2802.1(a) shall designate a point of contact for the receipt and handling of unsolicited proposals. Generally, the official designated shall be the chief of the contracting office as defined in 2802.1(f) or immediate subordinate.

(b) The following points of contact have been designated:

(1) For the OBDs—The Assistant Director, Procurement Service, PCS.

(c) The designated point of contact for each contracting activity shall provide for and coordinate receipt, review, evaluation, and final disposition of unsolicited proposals in accordance with FAR 15.506 through 15.509.

(d) The contracting officer shall advise the members of the evaluation committee of the Standards of Conduct contained in 28 CFR Part 45. Each member of the evaluation committee shall certify in writing that he/she has no apparent or actual conflict of interest. Committee members who become aware of a conflict of interest during the course of the proceedings shall report such conflicts, whether real or apparent, to the contracting officer immediately following such awareness. The contracting officer shall take immediate action to dismiss the committee member and appoint a replacement. If the contracting officer determines that dismissal is not necessary, such determination shall be made in writing and approved by the head of the contracting activity.

Subpart 2815.8—Price Negotiation

2815.803–70 General.

In a contractor insists on a price or demands a profit or fee that the contracting officer considers unreasonable and the contracting officer has taken all authorized actions to negotiate a reasonable price or profit or fee without success, the contracting officer shall then refer the contract action to the DOJ Procurement Executive for the OBD's, or to the appropriate official for their agency listed in 2801.601(a) or their designee in accordance with bureau procedures.

2815.804–370 Waiver of submission of certified cost or pricing data.

In exceptional cases, the requirement for submission of certified cost or pricing data may be waived. The authorization to waive such requirement shall be in writing and shall set forth the relevant circumstances, including reasons for granting such waiver and the contracting officer's recommendation. The authorization shall be approved by the appropriate agency officials listed in 2801.601(a) or his/her designee in accordance with agency procedures.

2815.805–570 Field pricing support.

Field pricing support is available to the OBDB's through the Audit Staff, Justice Management Division. All requests for audit assistance shall be directed to the Director, Audit Staff, Justice Management Division, Room 1600, Skyline Place 1, 5205 Leesburg Pike, Falls Church, Virginia 22041.

PART 2816—TYPES OF CONTRACTS

2816.000 Scope of part.

Subpart 2816.6—Time-and-Materials, Labor-Hour, and Letter Contracts

2816.603 Letter contracts.
2816.603–270 Application.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2816.000 Scope of part.

This part describes types of contracts that may be used in acquisitions other than small purchases under FAR Part 13 and Part 2813 of this Chapter. It prescribes policies and procedures and provides guidance for selecting a contract type appropriate to the circumstances of the acquisition.

Subpart 2816.6—Time-and-Materials, Labor-Hour, and Letter Contracts

2816.603 Letter contracts.

2816.603–270 Application.

In cases where the contracting officer and the contractor cannot negotiate the definitization of a letter contract within 180 days after the date of the letter contract, or before completion of 40 percent of the work to be performed, the contracting officer may, with the written approval of the head of the contracting activity, revise and extend the definitization schedule. However, in no event shall the extension of the definitization schedule extend beyond the lesser of: An additional 180 day period or the completion of 80 percent of the work to be performed. If at the end of the extension the contracting officer and the contractor cannot negotiate a definitive contract because of failure to

reach an agreement on price or fee, the procedures set forth in FAR 52.216-25, FAR 16.603-2, 15.8, and Part 31 shall be followed as applicable.

PART 2817—SPECIAL CONTRACTING METHODS

Subpart 2817.5—Interagency Acquisitions Under the Economy Act

2817.502-70 General.

For the purposes of FAR 17.502, the head of the requesting agency responsible for making the required written determination shall be the individuals listed in 2801.601(a) or their designee.

(28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j))

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2819—SMALL AND DISADVANTAGED BUSINESS CONCERNS

Subpart 2819.2—Policies

2819.201 General policy.

(a) The Office of Small and Disadvantaged Business Utilization is organizationally attached to the Office of the Deputy Attorney General in accordance with 28 CFR 0.18(a).

(b) The Director, Office of Small and Disadvantaged Business Utilization is responsible for the administration of the DOJ small and disadvantaged business programs in accordance with the duties described in 28 CFR 0.18(a).

(28 U.S.C. 509 and 510; 15 U.S.C. 644(k); 28 CFR 0.18(a)(4))

PART 2822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 2822.1—Basic Labor Policies

2822.103-4 Overtime approvals.

The inclusion of a dollar amount greater than zero in paragraph (a) of the FAR clause 52.222-2, Payment for overtime premiums, must be approved at a level above the contracting officer. Such approval shall be signified by the signature of the approving official on the contracting officer's written determination made in accordance with FAR 22.103-4.

(28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j))

PART 2824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

2824.202 Policy.

Procedures for processing FOIA/PA requests for JMD records are set forth in departmental regulations and 28 CFR Part 16.

(28 U.S.C. 510; 5 U.S.C. 301, 552)

PART 2825—FOREIGN ACQUISITIONS

Subpart 2825.1—Buy American Act—Supplies

2825.102-70 Policy.
2825.105-70 Evaluating offers.
2825.108-70 Excepted articles, materials, and supplies.

Subpart 2825.2—Buy American Act—Construction Materials

2825.202-70 Policy.
2825.203-70 Evaluating offers.

Subpart 2825.3—Balance of Payments Program

2825.302-70 Policy.

Subpart 2825.9—Omission of the Examination of Records Clause

2825.903-70 Conditions for omission.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c), 28 CFR 0.75(j) and 0.76(j).

Subpart 2825.1—Buy American Act—Supplies

2825.102-70 Policy.

(a) The agency officials authorized to make determinations under FAR 25.102(a)(3) that domestic preference would be inconsistent with the public interest are those individuals listed in 2801.601(a). Determinations made under this authority shall cite the rationale supporting the decision not to apply the domestic preference criteria and shall be reviewed and concurred in by the contracting activity's procurement counsel prior to approval by the appropriate agency official.

(b) The agency officials authorized to make determinations under FAR 25.102(a)(4) are the officials referenced in paragraph (a) of this section or their designees. Determinations made under this subpart shall cite the rationale supporting the determination and shall be reviewed and concurred in by the contracting activity's procurement counsel prior to approval by the appropriate agency official.

2825.105-70 Evaluating offers.

The agency officials authorized to make a determination that the offered price of a domestic end product is unreasonable when the lowest priced acceptable domestic offer exceeds the lowest priced acceptable foreign offer inclusive of duty when the factors set forth in FAR 25.105 have been applied, are those officials listed in 2801.601(a).

2825.108-70 Excepted articles, materials, and supplies.

The agency officials cited in 2825.102-70(b) and 2825.202-70(b) who are responsible for making the determinations authorized under those sections shall be responsible for providing the notification of excepted articles, materials, and supplies required by FAR 25.108(b) and (c).

Subpart 2825.2—Buy American Act—Construction Materials

2825.202-70 Policy.

(a) The agency officials authorized to make determinations under FAR 25.202(a)(2) that the use of a particular construction material would be impracticable are those individuals listed in 2801.601(a). Determinations made under this authority shall cite the rationale supporting the determination and shall be reviewed and concurred in by the contracting activity's procurement counsel prior to approval by the appropriate agency official.

(b) The agency officials authorized to make determinations under FAR 25.202(a)(3) are the officials referenced in paragraph (a) of this section or their designees. Determinations made under this subpart shall cite the rationale supporting the determination and shall be reviewed and concurred in by the agency's procurement counsel prior to approval by the appropriate agency official.

2825.203-70 Evaluating offers.

The agency officials authorized to make a determination that using a particular domestic construction material would unreasonably increase the cost of the acquisition or would be impracticable are those officials listed in 2801.601(a).

Subpart 2825.3—Balance of Payments Program

2825.302-70 Policy.

The agency officials authorized to make determinations under FAR 25.302(b)(3), as well as authorize the use of a differential greater than 50 percent for the evaluation of domestic and foreign offers under the Balance of Payments Program, are those officials listed in 2801.601(a) or their designees. All determinations made under this part shall be in writing and shall set forth the facts and circumstances supporting the determination. Determinations shall be reviewed and concurred in by the

contracting activity's procurement counsel. Authorizations to use a differential greater than 50 percent for the evaluation of domestic and foreign offers under the Balance of Payments Program (ref. FAR 25.302(c) and 25.303(b)) shall also require a written determination.

Subpart 2825.9—Omission of the Examination of Records Clause

2825.903-70 Conditions for omission.

The agency officials authorized to make determinations under FAR 25.903(a)(1) are those individuals listed in 2801.601(a). All determinations made under this authority shall conform to FAR 25.904 and be reviewed and concurred in by the contracting activity's procurement counsel prior to being approved by the authorized agency official.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 2828—BONDS AND INSURANCE

2828.000 Scope of part.

Subpart 2828.1—Bonds

2828.105 Other types of bonds.
2828.106-270 Substitution of surety bonds.

Subpart 2828.2—Sureties

2828.203 Options in lieu of sureties.

Subpart 2828.3—Insurance

2828.307 Group insurance plans.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2828.000 Scope of part.

This part prescribes requirements for obtaining financial protection against damages under advertised and negotiated contracts. It covers bid guarantees, bonds, sureties, and insurance. The terms "bid" and "bidders" as used in this part include "proposal" and "offerors."

Subpart 2828.1—Bonds

2828.105 Other types of bonds.

The head of the contracting activity may approve the use of other types of bonds in connection with acquiring particular supplies or services. These types include advance payments bonds and patent infringement bonds. When the contracting officer determines in writing that it is in the Government's best interest to secure either type of bond, he shall submit his written determination which sets forth the pertinent circumstances and the rationale for the necessity of securing such bonds, to the head of the contracting activity for approval.

2828.106-270 Substitution of surety bonds.

(a) A new surety bond covering all or part of the obligations on a bond previously approved may be substituted for the original bond if approved by the head of the contracting activity.

(b) When the contracting officer determines in writing that it is in the Government's best interest to substitute sureties he will set forth his rationale in the determination and submit it to the head of the contracting activity for approval.

(c) When so approved and authorized by the head of the contracting activity, the contracting officer shall notify the principal and surety of the original bond, that the original bond will not be considered as security for any default occurring after the date of acceptance of the new bond.

Subpart 2828.2—Sureties

2828.203 Options in lieu of sureties.

When contractors submit any of the types of security described in FAR 28.203 in lieu of furnishing sureties, the contracting officer shall enter into an agreement with the contractor covering a bank account, and suitable covenants protecting the Government's interest, in which the securities will be deposited to protect against their loss during the period of the bond obligation.

Subpart 2828.3—Insurance

2828.307 Group insurance plans.

Under cost-reimbursement contracts, before buying insurance under a group insurance plan, the contractor shall submit the plan to the contracting officer for review. During review, the contracting officer should utilize all sources of information available such as audit, industry practices, etc., to determine that acceptance of the group insurance plan, as submitted, is in the Government's best interest, prior to submitting the determination and the plan to the head of the contracting activity for approval.

PART 2829—TAXES

2829.000 Scope of part.

Subpart 2829.1—General

2829.101-70 Resolving tax problems.

Subpart 2829.3—State and Local Taxes

2829.303-70 Application of State and local taxes to government contractors and subcontractors.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2829.000 Scope of part.

This part prescribes policies and procedures for (a) resolving tax problems and (b) asserting immunity or exemption from taxes. It provides general policy and guidance for DOJ personnel.

Subpart 2829.1—General

2829.101-70 Resolving tax problems.

Agency designated legal counsel is responsible for resolving tax issues which affect the agency.

Subpart 2829.3—State and Local Taxes

2829.303-70 Application of State and local taxes to government contractors and subcontractors.

(a) It is DOJ policy that DOJ contracts shall not contain clauses expressly designating prime contractors as agents of the Government for the purpose of avoiding State and local taxes.

(b) Although circumstances may exist under which a contractor is an agent of the Government, even in the absence of a contract clause expressly designating a contractor as such, these circumstances should be extremely rare. Before any DOJ procuring activity may contend that any of its contractors are agents of the Government for the purpose of claiming immunity from State and local sales and use taxes, the matter will be referred to the AAG/A for review, and approval to ensure that DOJ policy is complied with and that the procuring activity's contention is fully in accordance with the pertinent legal principles and precedents. Each case forwarded will be reviewed by the head of the contracting activity before referral to the AAG/A. The referral will include all pertinent data on which the procuring activity's contention is based, together with a thorough analysis of all relevant legal precedents.

(c) Whenever clauses, procedures, and business practices are cited by DOJ procurring activities to support the contention that a contractor is an agent of the Government for the purpose of immunity from a State or local sales or use tax, contracting activities should whenever possible, devise alternative clauses, procedures, and practices for future use which will accomplish their intended purpose without providing the basis for contention that the contractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes. Any referral to the AAG/A for approval under this subpart shall include comments on the extent to which alternative clauses, procedures, or practices may be utilized

to accomplish the intended purpose without providing the basis for the contention that the contractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes.

PART 2830—COST ACCOUNTING STANDARDS

2830.000 Scope of part.

Subpart 2830.2—Disclosure Requirements

2830.201–270 Impracticality of submission.

Subpart 2830.3—Cost Accounting Standards Contract Requirements

2830.304–70 Waiver.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2830.000 Scope of part.

This part describes policies and procedures for applying the Cost Accounting Standards Board (CASB) standards and regulations which the Administrator of the General Services Administration, as a matter of policy, has directed to be applied to certain nondefense contracts. This part does not apply to formally advertised contracts or to any contract with a small business concern (see FAR 30.301(b) for other exemptions).

Subpart 2830.2—Disclosure Requirements

2830.201–270 Impracticality of submission.

When the contracting officer has determined that it is impractical to secure a Disclosure Statement, as required under FAR 30.2, he will document the reasons and rationale for such impracticability and forward the determination, and an explanatory cover letter which sets forth the pertinent circumstance and details the contracting officer's attempts to secure such Disclosure Statement, to the DOJ Procurement Executive who will review the documentation prior to forwarding it to the AAG/A for signature.

Subpart 2830.3—Cost Accounting Standards Contract Requirements

2830.304–70 Waiver.

All requests for a waiver of the Cost Accounting Standards requirements shall be forwarded through the DOJ Procurement Executive to the AAG/A after the contracting officer has made the determination required by FAR 30.304(a).

PART 2831—CONTRACT COST PRINCIPLES AND PROCEDURES

2831.000 Scope of part.

Subpart 2831.1—Applicability

2831.101–70 Objectives.
2831.109–70 Advance agreements.

Subpart 2831.2—Contracts With Commercial Organizations

2831.205 Selected costs.
2831.205–3270 Precontract costs.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2831.000 Scope of part.

This part contains cost principles and procedures for (a) the pricing of contracts, subcontracts, and modifications to contracts and subcontracts whenever cost analysis is performed and (b) the determination, negotiation, or allowance of costs when required by a contract clause.

Subpart 2831.1—Applicability

2831.101–70 Objectives.

(a) The DOJ Procurement Executive is the AAG/A's designee with respect to the granting of individual deviations to the cost principles of FAR Part 31. All requests for individual deviations must cite the facts and circumstances surrounding the request as well as attempts negotiate contractor compliance.

(b) Requests for class deviations from the cost principles set forth in FAR Part 31 will be forwarded through the DOJ Procurement Executive prior to submission to the Civilian Agency Acquisition Counsel. Requests must contain the information required in paragraph (a) of this section.

2831.109–70 Advance agreements.

(a) The DOJ and bureau contracting officers are encouraged to negotiate advance agreements concerning the treatment of special or unusual costs to avoid possible subsequent disputes or disallowance of costs based upon unreasonableness or nonallowability. All such agreements shall be negotiated prior to the incurring of such costs by the contractor and in accordance with FAR 31.109. Contracting officers are not authorized to agree to a treatment of costs which would be inconsistent with FAR Part 31.

(b) Prior to negotiating an advance agreement, contracting officers shall make a written determination setting forth the reasons and rationale for entering into such advance agreement. In addition, the determination will set forth the nature, the duration, and which contract or contracts are covered by the proposed agreement. All determinations required by this subpart will be reviewed and approved at a level above the contracting officer prior to negotiation of the proposed agreement. The approved determination will be placed in the contract file.

(c) All advance agreements shall be in writing and shall set forth the nature, duration, and contract or contracts covered by the agreements. Advance agreements will be signed by both the contractor and the contracting officer, and made a part of the contract file. Copies of executed advance agreements will be distributed to the cognizant audit office when applicable.

(d) All advance agreements will be incorporated in full in the subsequent contract(s) to which they pertain, prior to award.

Subpart 2831.2—Contracts With Commercial Organizations

2831.205 Selected costs.

2831.205–3270 Precontract costs.

(a) Precontract cost authorizations shall be used only on cost reimbursement contracts, contain no provisions for payment of fees, and be treated as advance agreements in accordance with the provisions of FAR 31.109 and 2831.109–70 of this Chapter.

(b) The following limitations apply to the execution of precontract cost authorizations.

(1) Contracts which are estimated to be $100,000 or less may contain a precontract cost authorization providing the authorization is for a period of 30 days or less and the dollar amount does not exceed one third of the total estimated costs (including fee if any) of the contract.

(2) Contracts which are estimated to be greater than $100,000 may contain a precontract cost authorization providing the authorization is for a period of 60 days or less and the dollar amount does not exceed the lesser of $100,000 or one third of the total estimated costs (including fee if any) of the contract.

(3) The limitations expressed under paragraphs (b) (1) and (2) of this section may be increased in unusual circumstances as appropriate, with the written approval of the head of the contracting authority, but in no event shall they exceed one-third of the total estimated costs (including fee if any) of the contract or be for periods of time which exceed 90 days.

PART 2832—CONTRACT FINANCING

2832.000 Scope of Part.

Subpart 2832.4—Advance Payments

2832.400 Scope of subpart.
2832.402–70 General.
2832.407–70 Interest.

Subpart 2832.70—Prompt Payment Act

2832.7000 Scope of subpart.
2832.7001 Policy.
2832.7002 Contract clauses.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2832.000 Scope of part.

This part prescribes policies and procedures for contract financing and other payment matters.

Subpart 2832.4—Advance Payments

2832.400 Scope of subpart.

This subpart provides policies and procedures for advance payments on prime contracts and subcontracts.

2832.402-70 General.

(a) The authority to sign written determinations and findings with respect to making advance payments is vested in those individuals listed in 2801.601(a) for their respective bureaus.

(b) Prior to awarding a contract which contains provisions for making advanced payments, the contract terms and conditions concerning advance payments must be approved at a level above the Contracting Officer, with the advice and consent of the bureau's legal counsel.

(c) The Contracting Officer shall coordinate with the activity that is to provide contract financing for advance payments, the bureau's disbursing or finance office, or the Treasury Department, as appropriate, to ensure that all FAR and departmental requirements are met.

2832.407-70 Interest.

In cases where advance payments may be made on an interest free basis (FAR 32.407(d)), the intent to make such interest free advance payments, and the circumstance permitting interest free advance payments, shall be set forth in the original determination and findings and be approved in accordance with 2832.402-70(a).

Subpart 2832.70—Prompt Payment Act

2832.7000 Scope of subpart.

This subpart implements the provisions of the Prompt Payment Act (Pub. L. 97-177, May 21, 1982, 31 U.S.C. 1801) and OMB Circular A-125. It also provides contract clauses for Prompt Payment and wire transfer procedures when the amount of payment exceeds $25,000.

2832.7001 Policy.

It is the policy of the Government to include payment terms in contracts and to make payments by the due dates determined in accordance with such terms. Adherence to this policy is intended to result in the avoidance of interest penalties on overdue payments, establish better business relationships with suppliers, and increase competition for Government contracts.

2832.7002 Contract clauses.

The clauses at 2852.232-70 through 2852.232-79 shall be used in all contracts subject to the Prompt Payment Act as appropriate.

PART 2833—DISPUTES AND APPEALS

2833.000 Scope of part.
2833.009-70 Suspected fraudulent claims.
2833.011-70 Contracting officer's decision.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2833.000 Scope of part.

This part prescribes policies and procedures for processing contract disputes and appeals.

2833.009-70 Suspected fraudulent claims.

Contracting officers shall report suspected fraudulent claims to the Director, Commercial Litigation Branch, Civil Division, Room 1138, TODD Building, Washington, D.C., (Ref. 28 CFR 0.45(d)).

2833.011-70 Contracting Officer's decision.

(a) The Agency Board of Contract Appeals (BCA) which will hear appeals from the decisions of DOJ and bureau contracting officers is the Department of Transportation BCA. The procedures set forth in 41 CFR 12-60 Contract Appeals Board shall apply.

(b) Pursuant to 28 CFR 0.45 the contact for all appeals of decisions of DOJ contracting officers which will be forwarded to the BCA under paragraph (a) of this section, should be sent to the Director, Commercial Litigation Branch, Civil Division, Room 740, TODD Building, Washington, D.C. 20530.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 2835—RESEARCH AND DEVELOPMENT CONTRACTING

2835.000 Scope of part.
2835.001-70 Definitions.
2835.003-70 Policy and procedures.
2835.005-70 Work statement.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2835.000 Scope of part.

This part prescribes policies and procedures with respect to the special application of research and development (R&D) contracting.

2835.001-70 Definitions.

(a) "Research" is a systematic, intensive, scientific study including experimentation directed toward increasing knowledge and understanding of those fields of the sciences related to the solution of mission related problems.

(b) "Development" as used in the JAR, is the systematic use of the knowledge and understanding derived from research efforts directed toward the solution of specific problems or the formulation of specific projects or processes, and the subsequent production of useful materials, devices, systems, methods, or prototypes.

(c) "Research and development activities" are those activities which include: Strategic planning and analysis leading to the performance of research or development; research or development leading to the creation of prototype equipment or processes; as well as operational testing; experimentation; field implementation; and evaluation of such equipment or processes. The following are illustrative of research and development activities: Theoretical analyses; exploratory studies and experiments in any field of science and technology; developmental efforts requiring the practical application of investigative findings and theories of a scientific or technical nature; the use of such quantities and kinds of equipment, supplies, parts, accessories, or patent rights thereto and drawings or designs thereof as well as services, tests, and reports necessary for, or incidental to the performance of experimental, developmental or research work. The term "research and development activities," as used in this part, ordinarily encompasses those activities listed above. However, in an exceptional case, depending upon the particular facts, some kinds of efforts not set forth above could be categorized as "research and development activities" within this part. These activities do not ordinarily include: Routine product testing; quality control; mapping; collection of general purpose statistics; experimental production; routine evaluation of an experimental program or an operational program; activities concerned primarily with the dissemination of scientific information or the training of scientific and technical personnel. However, in an exceptional case, depending upon the particular facts and circumstances, some kinds of efforts excluded in the preceding sentence could be research and development activities within this supplemental regulation.

2835.003-70 Policy and procedures.

The policy and procedures governing contracting for R&D are as follows:

(a) *Acquisition approval.* All acquisition of research and development activities which exceed $25,000 must be approved by the Deputy Attorney General prior to solicitation. Requests for approval must be accompanied by: a determination and findings (D&F) as described in paragraph (c) of this section; the sole source statement or justification for noncompetitive procurement, if applicable; a copy of the synopsis if a source's sought synopsis was issued; and a copy of a synopsis of the proposed statement of work. All requests which meet the above threshold must be directed to the Deputy Attorney General via the Systems Policy Staff, JMD, for a review of the technical content by the Technical Review Committee and the DOJ Procurement Executive as well as the General Counsel, JMD. Acquisitions of research and development activities which are $25,000 or less may be approved by the AAG/A. The authority to approve D&Fs for R&D activities estimated to cost less than $25,000 may not be redelegated. All requests should be submitted for the appropriate evaluation and review as early in the fiscal year as practicable.

(b) *Technical Review Committee (TRC).* A Technical Review Committee has been formed to review and provide a special annual analysis of all R&D activities. The TRC will be selected from individuals of the OBDBs who are involved in R&D activities, as well as members of the Budget and Systems Policy Staffs, and the DOJ Procurement Executive (or a designee) of the Justice Management Division. The TRC will be chaired by a JMD official whose responsibilities will include the generation and submission of the annual special analysis. The TRC will evaluate all statements of work for R&D activities, in terms of their technical merit and programmatic value, to assure that there is no duplication of R&D efforts among OBDBs within the Department. The TRC will meet quarterly and prepare a report, due in July of each year, which summarizes the TRC's findings and includes recommendations concerning proposed R&D activities for the following year for the AAG/A. Appropriate D&Fs which have been approved in accordance with paragraph (a) of this section will accompany the report. Other D&Fs which require further refinement will be submitted at a later date.

2835.005-70 Work statement.

(a) The preparation of a clear, concise, and complete statement of work is essential to sound contracting for R&D activities. Work statements must be individually tailored by technical and contracting personnel to attain the desired degree of flexibility for contractor creativity, both in submitting proposals and in contract performance. Distinction must be made between level of effort (term) work statements which generally require the furnishing of technical effort and a report on the results thereof, and task (completion) work statements which generally require development of tangible end items designed to meet specific functional requirements.

(b) In preparing statements of work for R&D activities the following elements shall be considered:

(1) A general description of the required objectives and the desired results;

(2) All background information helpful to a clear understanding of the requirements and how they evolved;

(3) Technical considerations which affect the requirements such as known specific phenomena or techniques;

(4) A detailed description of the technical requirements and subordinate or associated tasks;

(5) A description of the reporting requirements and any other deliverable items such as data, experimental hardware, prototypes, etc.; and,

(6) Other special considerations.

SUBCHAPTER H—CLAUSES AND FORMS

PART 2852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2852.000 Scope of part.

Subpart 2852.0—Instructions for Using Provisions and Clauses

2852.100 Scope of subpart.
2852.101 Using Part 2852.
2852.102 Incorporating provisions and clauses.
2852.102-70 Incorporation in full text.
2852.104-70 Procedures for modifying and completing JAR provisions and clauses.
2852.105-70 Procedures for using alternates.

Subpart 2852.2—Texts and Provisions of Clauses

2852.200 Scope of subpart.
2852.201-70 Contracting Officer's Technical Representative (COTR).
2852.210-70 Brand name or equal.
2852.232-70 Method of payment.
2852.232-71 Invoice requirements (FFP).
2852.232-72 Invoice requirements (CPFF, T&M, and LH).
2852.232-73 Invoice requirements (purchase orders).
2852.232-74 Payment due date (F.O.B. destination).
2852.232-75 Payment due date (F.O.B. origin).
2852.232-76 Payment due date (based on delivery).
2852.232-77 Interest on overdue payments (contracts).
2852.232-78 Interest on overdue payments (purchase orders).
2852.232-79 Inspection and acceptance.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

2852.000 Scope of part.

This part: gives instructions for using provisions and clauses in solicitations and/or contracts; and, sets forth the solicitation provisions and contract clauses prescribed by this regulation.

Subpart 2852.1—Instructions for Using Provisions and Clauses

2852.100 Scope of subpart.

This subpart: gives instructions for using Part 2852, including the explanation of provisions and clauses; and, prescribes procedures for modifying provisions and clauses in solicitations and contracts and for using alternatives.

2852.101 Using Part 2852.

(a) Definitions:

"Alternate" means a substantive variation of a basic provision or clause prescribed for use in a defined circumstance. It (1) adds wording to, (2) deletes wording from, or (3) substitutes specified wording for a portion of the basic provision or clause. The alternate portion of the basic provision or clause is the basic provision or clause as changed by the addition, deletion, or substitution.

"Contract clause" or "clause" means a term or condition used in contracts or both solicitations and contracts which applies after contract award or both before and after award.

"Modification," as used in this subpart, means a minor change in the details of a provision or clause that is specifically authorized by the JAR and does not alter the substance of the provision or clause.

"Solicitation provisions" or "provision" means a term or condition used only in solicitations and applying only before contract award.

"Substantially as follows" or "substantially the same as," when used in the prescription or preface of a provision or clause, means that authorization is granted to prepare and utilize a variation of that provision or clause to accommodate equipment peculiar to an individual acquisition; provided that the variations include the salient features of the JAR provision or clause and are not inconsistent with the intent, principle, and substance of the

JAR provision or clause or related coverage of the subject matter.

(b) The numbering system used for JAR clauses follows to the extent possible, the numbering system used in FAR Part 52.

2852.102 Incorporating provisions and clauses.

2852.102-70 Incorporation in full text.

JAR provisions or clauses shall be incorporated in solicitations and contracts in full text.

2852.104-70 Procedures for modifying and completing JAR provisions and clauses.

(a) JAR provisions and clauses shall not be modified unless the JAR authorizes their modification. Any such authorizations are contained in the provision or clause preface.

(b) When modifying JAR provisions or clauses incorporated by reference, insert the changed wording directly by substituting the changed wording as permitted.

(c) When completing blanks in JAR provisions or clauses incorporated in full text, insert the fill-in information in the blanks of the provision or clause.

2852.105-70 Procedures for using alternates.

(a) A major variation in a JAR provision or clause is accommodated by the use of an alternate. All alternates to a given provision or clause as well as instructions for their use appear after the basic provision or clause.

(b) Bureaus wishing to use an alternate for a JAR required provision or clause must submit the proposed alternate to the DOJ Procurement Executive for review and approval prior to using the proposed alternate.

Subpart 2852.2—Texts and Provisions of Clauses

2852.200 Scope of subpart.

This subpart sets forth the texts of all JAR provisions and clauses.

2852.201-70 Contracting Officer's Technical Representative (COTR).

The following clause is recommended for use in solicitations and contracts to delineate COTR responsibility and authority is accordance with 2801.70.

Contracting Officer's Technical Representative

(a) Mr./Ms. (Name) of (Organization) (Room No.), (Building), (Address), (Area Code & Telephone No.), is hereby designated to act as Contracting Officer's Technical Representative (COTR) under this contract.

(b) The COTR is responsible for: receiving all deliverables; inspecting and accepting the supplies or services provided hereunder in accordance with the terms and conditions of this contract; providing direction to the contractor which clarifies the contract effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment prior to forwarding the original invoice to the payment office and a conformed copy to the Contracting Officer.

(c) The COTR does not have the authority to alter the contractor's obligations under the contract, direct changes that fall within the purview of the General Provisions clause entitled "Changes," and/or modify any of the expressed terms, conditions, specification, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes in writing and signed.

(End of clause)

2852.210-70 Brand name or equal.

This clause shall be used in accordance with 2810.004-70. (As used in this clause, the term "brand name" includes identification of products by make and model.) When this clause is used, the salient features of the "brand name" item must be set forth in the solicitation in order to permit offerors of "equal products" to bid.

Brand Name or Equal

(a) If items called for by this invitation for bids have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics and requirements listed in the invitation.

(b) Unless the bidder clearly indicates in his bid that he is offering an "equal" product, his bid shall be considered as offering a brand name product referenced in the invitation for bids.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the invitation for bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in his bid as well as other information reasonably availalbe to the purchasing activity. Caution to Bidders: The purchasing activity is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the purchasing activity. Accordingly, to ensure that sufficient information is available, the bidder must furnish as a part of his bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the purchasing activity to; (i) determine whether the product offered meets the salient characteristics requirement of the invitation for bids, and (ii) establish exactly what the bidder proposed to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or information otherwise available to the purchasing activity.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the Invitation for Bids, he shall; (i) include in his bid a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after the bid opening to make a product conform to a brand name product referenced in the Invitation for Bids will not be considered.

(End of clause)

2852.232-70 Method of payment.

The following clause shall be inserted in all solicitations and contracts in which it is expected that subsequent to award there will be payments in excess of $25,000.

Method of Payment

(a) Payments under this contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

(b) The information requested in this clause concerning your financial institution should be available through your company's treasurer or financial institution.

(c) If your financial institution has access to the Federal Reserve Communications System, please complete only items 1 through 9 and 14. If your financial institution does not have access to the Federal Reserve Communications System, please complete all items except 7 and 8.

(d) Within three days after receipt of a notice of award or a two party negotiated contract, the contractor shall forward the following information, in writing, to the Contracting Officer or other agency official designated in this clause to facilitate contract payments:

(1) Name of company: _____

(2) Address: _____

_____

(3) Contact person: _____

(4) Phone number:
Area Code(———) _____

(5) Name of financial institution: _____

(6) Address of financial institution: _____

(7) Financial institution's nine-digit ABA Identification Number for routing transfer of fund: ———. (Complete only if your financial institution has access to the Financial Reserve Communication System.)

(8) Telegraphic abbreviation of financial institution: ———. (Complete only if your financial institution has access to the Federal Reserve Communication System.)

(9) Account number at your financial institution to be credited with the funds:

(10) Name of the correspondent financial institution your financial institution receives electronic funds transfer messages through if it does not have access to the Federal Reserve Communication System:

(11) Address of correspondent financial institution:

(12) Correspondent financial institution nine-digit ABA Identification Number for routing transfer of funds: ———

(13) Telegraphic abbreviation of correspondent financial institution:

(14) Signature and title of person completing this form:

Signature

Title

Date

Comments:

Mail to:*

(e) Any changes to the information provided under paragraph (d) of this clause shall be furnished in writing to ———* and signed by the official whose name appears in d.1.4 above. It is the contractor's responsibility to furnish these changes promptly to avoid payments to erroneous addresses or bank accounts.

(End of clause)

*Enter the name and address of the agency official and the office designated to receive Treasury Financial Communications System payment information if other than the Contracting Officer.

2852.232-71 Invoice requirements (FFP).

The following clause shall be inserted in all FFP, indefinite quantity/delivery, and requirements contracts.

Invoice Requirements

1. The contractor shall submit an original itemized invoice directly to the Contracting Officer's Technical Representative *with an information copy, so annotated, to the Contracting Officer.* To constitute a proper invoice each invoice shall be annotated with the following information: (i) The name of the business concern and the invoice date; (ii) contract number; (iii) a description and the quantity of supplies or services furnished as well as their asssociated contract line item number(s); (iv) shipping and payment terms; and (v) the name, title, telephone number, and complete mailing address of the responsible official to whom payment is to be sent.

2. To assist the Government is making timely payments, the contractor is requested to furnish the following additional information either on the invoice or on an attachment to the invoice; (i) the date delivery occurred or the period over which services were provided, (ii) the contractor's Taxpayer Identification Number (usually their Social Security Number if the contractor is an individual or their Employer Identification Number if a company), and (iii) the contractor shall enter the following statement on the reverse side of the invoice:

Certification

I certify to the best of my knowledge and belief that the supplies/services shown on this invoice have been received and are accepted.

Contracting Officer's Technical Representative

Date

3. After the Contracting Officer's Technical Representative has inspected and accepted the supplies or services provided under this contract he will complete the above certification on the invoice and forward it to the payment office. One conformed copy will be forwarded to the Contracting Officer.

4. Pursuant to the Prompt Payment Act of 1982, the contractor may be entitled to an interest payment on an invoice that is not timely paid. Payment of interest is only permitted when: (i) There is a contract with a business concern, i.e., any person or nonprofit entity engaged in a profession, trade, or business; (ii) Federal acceptance has occurred; (iii) a proper invoice, i.e., one which contains the information required by this clause, has been received and there are no disputes over quality or quantity; and (iv) payment is made to the business concern after the grace period, normally 15 days, has expired. In the event an invoice is submitted which does not contain the required information, the contractor will be so notified.

5. Payments should be made on the 30th day after Federal acceptance or receipt of a proper invoice, whichever is later, except as follows: (i) Meat or meat products as defined in section 2(a)(3) of the Packers and Stockyard Act, 1921 [8 U.S.C. 182(3)] within seven days of delivery; (ii) perishable agricultural commodities as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 [7 U.S.C. 499a(4)] within 10 days of delivery; (iii) when the contract specified a payment date, other than 30 days; and (iv) when a discount has been improperly taken. In connection with any discount allowed for prompt payment, time will be computed from the date of receipt of an invoice that is authorized for payment by the agency.

6. Payments are considered to be made on the date the check is issued or the date of payment by wire transfer through the Treasury Financial Communications System. Whenever proper invoices are paid after the due date plus the applicable grace period, interest will be included at the rate applicable on the payment date. This rate will be published in the **Federal Register** by the Secretary of the Treasury. Interest penalties compound at 30-day periods, but will not accrue upon the earlier of: (i) the filing of a claim under the Contract Disputes Act of 1978, or (ii) the end of a full year of interest charges. Interest penalties apply to invoices submitted for contractual performance against contracts awarded on/or after October 1, 1982.

Privacy Act Notice

Mandatory Disclosures, Authority, Purposes and Uses

Disclosure of your taxpayer identification number is mandatory for Federal income tax purposes under the authority of 26 U.S.C., sections 6011 and 6109(d) and 26 CFR 301.6109-1, in order to ensure the accuracy of income computation by the Internal Revenue Service. This information will be used to identify individuals compensated by funds of the Department of Justice. Failure to provide this information may result in delay of your compensation and/or withholding and transmission to the Internal Revenue Service of 20 percent of the total payment. Information on this form may be provided to the Internal Revenue Service on Form 1099.

(End of clause)

2852.232-72 Invoice requirements (CPFF, T&M, and LH).

The following clause shall be inserted in all CPFF, T&M, and LH contracts.

Invoice Requirements

(1) The contractor shall submit an original itemized invoice directly to the Contracting Officer's Technical Representative unless the Contracting Officer specified that invoices or public vouchers are to be submitted via his authorized audit representative. *An information copy, so annotated, of each invoice shall be forwarded to the Contracting Officer.* To constitute a proper invoice each invoice shall be annotated with the following information: (i) The name of the business concern and the invoice date; (ii) contract number; (iii) a description and the quantity of supplies or services furnished as well as their associated contract line item number(s); (iv) shipping and payment terms; and (v) the name, title, telephone number, and complete mailing address of the responsible official to whom payment is to be sent.

(2) To assist the Government in making timely payments, the contractor is requested to furnish the following additional information either on the invoice or on an attachment to the invoice: (i) the date delivery occurred or the period over which services were provided, (ii) the contractor's Taxpayer Identification Number (usually their Social Security Number if the contractor is an individual or Employer Identification Number if a company), and (iii) the

contractor shall enter the following statement on the reverse side of the invoice:

Certification

I certify to the best of my knowledge and belief that the supplies/services shown on this invoice have been received and are accepted.

Contracting Officer's Technical Representative

Date

3. After the Contracting Officer's Technical Representative has inspected and accepted the supplies or services provided under this contract he will complete the above certification on the invoice and forward it to the payment office. One conformed copy will be forwarded to the Contracting Officer.

4. Pursuant to the Prompt Payment Act of 1982, the contractor may be entitled to an interest payment on an invoice that is not timely paid. Payment of interest is only permitted when: (i) There is a contract with a business concern, i.e., any person or nonprofit entity engaged in a profession, trade, or business; (ii) Federal acceptance has occurred; (iii) a proper invoice, i.e., one which contains the information required by this clause, has been received and there are no disputes over quality or quantity; and (iv) payment is made to the business concern after the grace period, normally 15 days, has expired. In the event an invoice is submitted which does not contain the required information, the contractor will be so notified.

Privacy Act Notice

Mandatory Disclosures, Authority, Purposes, and Uses

Disclosure of your taxpayer identification number is mandatory for Federal income tax purposes under the authority of 26 U.S.C., Sections 6011 and 6109(d) and 26 CFR 301.6109–1, in order to ensure the accuracy of income computation by the Internal Revenue Service. This information will be used to identify individuals compensated by funds of the Department of Justice. Failure to provide this information may result in delay of your compensation and/or withholding and transmission to the Internal Revenue Service of 20 percent of the total payment. Information on this form may be provided to the Internal Revenue Service on Form 1099.

(End of clause)

2852.232–73 Invoice requirements (purchase orders).

The following clause shall be inserted in all purchase orders.

Invoice Requirements

(1) Invoices shall be prepared and an original submitted to the Accounting Operations Group (AOG), Finance Staff, Justice Management Division, unless otherwise specified herein. To constitute a proper invoice each invoice shall be annotated with the following information: (i) The name of the business concern and the invoice date; (ii) the purchase order number; (iii) a description and the quantity of supplies or services furnished as well as their associated purchase order line item number(s); (iv) shipping and payment terms; and (v) the name, title, telephone number, and complete mailing address of the responsible official to whom payment is to be sent.

(2) To assist the Government in making timely payments, the contractor is requested to furnish the following additional information either on the invoice or on an attachment to the invoice: (i) The requisition number and accounting information as specified; and (ii) the date delivery occurred or the period over which services were provided, and (iii) the contractor's Taxpayer Identification Number (usually their Social Security Number if the contractor is an individual or Employer Identification Number if a company).

Privacy Act Notice

Mandatory Disclosures, Authority, Purposes, and Uses

Disclosure of your taxpayer identification number is mandatory for Federal income tax purposes under the authority of 26 U.S.C., Sections 6011 and 6109(d) and 26 CFR 301.6109–1, in order to ensure the accuracy of income computation by the Internal Revenue Service. This information will be used to identify individuals compensated by funds of the Department of Justice. Failure to provide this information may result in delay of your compensation and/or withholding and transmission to the Internal Revenue Service of 20 percent of the total payment. Information on this form may be provided to the Internal Revenue Service on Form 1099.

(End of clause)

2852.232–74 Payment due date (F.O.B. destination).

The following clause is recommended when invoices may be received from contractors before the Government has had an opportunity to inspect and accept the supplies or services furnished. It is suitable for use in supply contracts when delivery is F.O.B. destination.

Payment Due Date

(a) Payments under this contract will be due on the * calendar day after the later of:

(1) The date of actual receipt of a proper invoice in the office designated to receive this invoice.

(2) The date the supplies are accepted by the Government.

(b) For the purpose of determining the due date for payment and for no other purpose, acceptance will be deemed to occur on the * * calendar day after the date of delivery of the supplies in accordance with the terms of the contract.

(c) If the supplies are rejected for failure to conform to the technical requirements of the contract or for damage in transit or otherwise, the provision in paragraph (b) of this clause will apply to the new delivery of replacement supplies.

(d) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(End of clause)

* Contracting Officer to insert an appropriate number (e.g., 30 days), unless some other number of days is necessary.

* * Contracting Officer to insert a number of days which constitutes the number of days necessary for inspection, acceptance, and other necessary actions.

2852.232–75 Payment due date (F.O.B. origin).

The following clause may be used in F.O.B. origin contracts where inspection and acceptance will occur at the source and proof of shipment is required to be furnished with the invoice. The clause may also be used for service contracts when services are furnished on a recurring basis.

Payment Due Date

(a) Payments under this contract will be due on the * calendar day after the date of actual receipt of a proper invoice in the office designated to receive the invoice.

(b) The date of the check issued in payment shall be considered to be the date payment is made.

(End of clause)

* Contracting Officer to insert an appropriate number (e.g., 30 days), unless some other number of days is necessary.

2852.232–76 Payment due date (based on delivery).

The following clause may be used for payment due dates based on delivery. Examples would be contracts for the procurement of meat or meat food products as defined in section 2(a)(3) of the Packers and Stockyards Act of 1921 (7 U.S.C. 182(3)) or perishable agricultural commodities as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)).

Payment Due Date

(a) Payments under this contact will be due on the * calendar day after the date of delivery.

(b) A proper invoice covering the supplies delivered is required to be submitted with the shipment. Delivery will be deemed to be made on the later of the actual date of delivery or the date a proper invoice is received in the office designated to receive the invoice.

(c) The date of the check issued in payment shall be considered to be the date payment is made.

(End of clause)

*Contracting Officer to insert 7th or 10th as appropriate.

2852.232–77 Interest on overdue payments (contracts).

The following clause shall be inserted in all contracts.

Interest on Overdue Payments

(a) The Prompt Payment Act, Pub. L. 97–177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to payments under this contract and requires the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A–125.

(End of clause)

Note.—Pursuant to the Prompt Payment Act of 1982, the contractor may be entitled to an interest payment on an invoice that is not timely paid. Payment of interest is only permitted when: (a) There is a contract with a business concern, i.e., any person or nonprofit entity engaged in a profession, trade, or business; (b) Federal acceptance has occurred; (c) a proper invoice, i.e., one which contains the information required by the Invoice Requirements clause, has been received and there are no disputes over quality or quantity; and, (d) payment is made to the business concern after the grace period, normally 15 days, has expired. In the event an invoice is submitted which does not contain the required information, the contractor will be so notified.

2852.232–78 Interest on overdue payments (purchase orders).

The following clause shall be inserted in all purchase orders.

Interest on Overdue Payments

(a) The Prompt Payment Act, Pub. L. 97–177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to payments under this purchase order and requires the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determination of interest due will be made in accordance with the provisions of the Prompt Payment Act and the Office of Management and Budget Circular A–125.

(End of clause)

Note.—Pursuant to the Prompt Payment Act of 1982, the contractor may be entitled to an interest payment on an invoice that is not timely paid. Payment of interest is only permitted when: (a) There is a contract with a business concern, i.e., any person or nonprofit entity engaged in a profession, trade, or business; (b) Federal acceptance has occurred; (c) a proper invoice, i.e., one which contains the information required by the Invoice Requirements clause, has been received and there are no disputes over quality or quantity; and, (d) payment is made to the business concern after the grace period, normally 15 days, has expired. In the event an invoice is submitted which does not contain the required information, the contractor will be so notified.

2852.232–79 Inspection and acceptance.

The following clause is recommended for use in solicitations and contracts to establish definitive dates for inspection and acceptance.

Inspection and Acceptance

(a) Inspection and acceptance of the supplies or services to be furnished hereunder shall be performed at destination/contractor's place of business by the COTR or his designated representative, in accordance with the Inspection clause and any other provisions specified in this contract. The Government reserves the right to conduct any tests it deems reasonably necessary to ensure that the supplies or services provided conform in all respects to the contract specifications. Supplies or services which upon inspection are found not to be in conformance with contractual specifications shall be promptly rejected and notice of such rejection, together with appropriate instructions, will be provided the contractor by the Contracting Officer.

(b) The Government will use its best efforts to inspect and accept/reject the supplies or services provided within *(to be negotiated, but usually thirty)* days. Failure of the Government to so inspect the supplies or services within the above stated time shall not be construed as acceptance of such supplies or services.

(End of clause)

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Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135
Special Federal Aviation Regulation No. 38-2; Certification and Operating Requirements; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135

[Docket No. 18510; Notice No. 85-3]

Special Federal Aviation Regulation No. 38-2; Certification and Operating Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: In response to the Airline Deregulation Act of 1978, the continuing phase out of the functions of the Civil Aeronautics Board, and the present industry environment, the Federal Aviation Administration (FAA) proposes to update Special Federal Aviation Regulation Number 38 (SFAR 38). The proposed amendment would: (1) Specify and clarify the type of certificate and operations specifications an operator may be issued consistent with the scope and type of its operations; (2) specify and clarify the certification requirements the operator must meet with respect to each type of operation in order to be eligible to have a specified type of operation authorized in its operations specifications; (3) clarify the regulations with which an operator must comply in the conduct of the operations specified; (4) include provisions regarding Part 125 and other regulations which have been promulgated since the adoption of SFAR 38 and eliminate provisions that relate to Part 123 and other regulations that are no longer applicable; (5) authorize certain operators of transport category airplanes having a maximum passenger seating capacity, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less to operate under the provisions of Part 121 rather than Part 135 when specific authorization is obtained from the Administrator (the related "pass-through" provision of SFAR 38 would be deleted); (6) require rotorcraft operations that may currently be subject to Parts 121 and 127 to be conducted under Part 135; and (7) include the substance of present Part 129 applicability in order to provide a comprehensive listing of certification and operations specifications requirements.

DATE: Comments must be received on or before April 1, 1985.

ADDRESS: Comments on the proposals may be mailed or delivered in duplicate to: Federal Aviation Administration; Office of the Chief Counsel; Attn: Rules Docket (AGC-204), Docket No. 18510; 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: "Docket No 18510." Comments may be inspected at Room 916 weekdays between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Catey, Project Development Branch, Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 472-4621.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in developing the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposal contained in this notice are invited. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a self-addressed, stamped postcard containing the following statement: "Comments on Docket No. 18510." The postcard will be date and time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's also should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

In response to the Airline Deregulation Act of 1978 (Pub. L. 95-504) and related actions by the Civil Aeronautics Board (CAB), on December 12, 1978, the FAA adopted SFAR 38 which simplified the certificate issuance procedures for air carriers and certain other operators engaged in air commerce.

Current SFAR 38 provides for each air carrier to be issued an FAA "Air Carrier Operating Certificate". "Air carrier," as defined in the Federal Aviation Act of 1958, as amended, "means any citizen of the United States who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in air transportation * * *." The "Air Carrier Operating Certificate" covers all of the operations that an air carrier may be authorized to conduct under the rules of Parts 121, 127, and 135 of the Federal Aviation Regulations. Operators who are not air carriers (non-air carriers) conducting operations in accordance with Parts 121, 123 (now revoked, 45 FR 67235, October 9, 1980), and 135 of the Federal Aviation Regulations are issued an FAA "Operating Certificate". The specific types of operations authorized under a certificate and the certification and operating rules applicable to each type of operation are specified in the operator's operations specifications.

The preamble to current SFAR 38 states that the holder of an Air Carrier Operating Certificate may be authorized to conduct under that certificate any of the following air carrier or "non-air carrier" operations specified in the current regulations, and that the holder of an Operating Certificate is limited to those operations specified in the regulations noted below for commercial operations.

Air Carrier Operating Certificate

Domestic air carrier operations—Part 121
Flag air carrier operations—Part 121
Supplemental air carrier operations—Part 121
All-cargo air service operations—Part 121
Scheduled helicopter operations under a CAB certificate of public convenience and necessity—Part 127
Air Taxi Operations—small and certain large aircraft—Part 135

Operating Certificate

Commercial operations in large aircraft—Part 121
Commercial operations in small and certain large aircraft—Part 135

Air travel club operations using large aircraft—Part 123

As noted above, Part 123 was revoked effective January 1, 1983. Currently, there are no air carriers conducting operations under Part 127. Furthermore, since February 3, 1981, certain commercial operations have been required to be conducted in accordance with the requirements of Part 125.

The preamble to current SFAR 38 made it clear that, notwithstanding the regulations then in force, certificates issued in accordance with the provisions of that SFAR are not identified with a particular type of operation (e.g., domestic air carrier, air taxi operator, etc.) or with a specific part of the FAR (e.g., Part 121 certificate holder, Part 135 certificate holder, etc.). Accordingly, under SFAR 38, the specific types of operations authorized under a certificate and the certification and operating rules applicable to each type of operation are identified in the operations specifications. Therefore, a person authorized to conduct operations as an air carrier is issued an Air Carrier Operating Certificate and operations specifications that specify each type of operation that an air carrier may conduct under that certificate. If an air carrier changes its type of operations, the operations specifications are revised to reflect the actual type of operations permitted. For example, an air carrier conducting scheduled operations within the United States using aircraft having a passenger seating configuration, excluding any pilot seat, of more than 30 seats or a payload capacity of more than 7,500 pounds is issued domestic operations specifications in accordance with the provisions of Part 121, and it must conduct operations in those aircraft under the rules of Part 121 that are applicable to domestic operations. If the air carrier also conducts operations using aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, it is issued operations specifications in accordance with the provisions of Part 135, and it must conduct operations with those aircraft (under 30 seats) under the rules of Part 135.

Under present SFAR 38 a person who does not meet the definition of an air carrier is issued an Operating Certificate and operations specifications appropriate to the types of operations that person conducts. Thus, an operator conducting "non-air carrier" operations with aircraft having a passenger seating configuration, excluding any pilot seat, of more than 30 seats and a payload capacity of more than 7,500 pounds would be issued operations specifications under the provisions of Part 121 for the type of operation it conducts, and it must conduct its operations with those aircraft in accordance with the rules of Part 121 applicable to the type of operation to be conducted. Also, for "non-air carrier" operations conducted in aircraft having a maximum seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, operations specifications are issued under the provisions of Part 135 for the type of operation it conducts and it must conduct its operations with those aircraft in accordance with the rules of Part 135 applicable to the type of operation to be conducted.

Current SFAR 38 also contains a "pass-through" provision for air carriers who held an Air Taxi/Commercial Operator Operating Certificate on December 1, 1978, and were conducting operations with large aircraft having a maximum passenger seating configuration, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less, to continue to conduct operations under Part 121. The "pass-through" provision is available only to the operators of those aircraft who notified the FAA in writing before December 1, 1978, that they wished to continue to operate those aircraft under the rules of Part 121 instead of Part 135.

Finally, current SFAR 38 provides that an air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board (CAB) and engaging in scheduled interstate air transportation using helicopters within the 48 contiguous States and the District of Columbia shall comply with the certification requirements in, and conduct its air carrier operations using helicopters in accordance with, the rules of Part 127, and it will be issued operations specifications under the provisions of Part 127.

Need To Revise SFAR 38

Since the adoption of current SFAR 38 on December 12, 1978, there have been a number of regulatory changes, circumstances, and experiences which necessitate revision of SFAR 38 to accurately reflect current regulatory requirements.

Under the Airline Deregulation Act of 1978, a number of CAB regulatory functions have been terminated in anticipation of the planned "sunset" of the CAB which directly or indirectly affected the FAA and SFAR 38. Prior to December 31, 1981, certain air carriers were required by section 401 of the Federal Aviation Act of 1958, as amended, to obtain a certificate of public convenience and necessity from the CAB. This certificate was based on the CAB's determination that the air carrier was fit, willing, and able to properly perform the transportation and the transportation was consistent with the public convenience and necessity. On January 1, 1982, the CAB's authority to issue certificates based on public convenience and necessity terminated. However, the CAB continued to issue these certificates, but based their issuance on a finding of fitness rather than explicit finding of public convenience and necessity. The CAB's authority to: specify terminal and intermediate points (cities and airports); prohibit a charter air carrier from selling tickets directly to the general public; require an air carrier to provide service authorized by its certificate; and regulate the termination, reduction, or suspension of service was terminated effective January 1, 1983. In addition, on January 1, 1983, the CAB's authority to regulate the filing of tariffs and prescribe rates and practices was, in part, terminated.

The Airline Deregulation Act of 1978 has resulted in the termination of certain of the CAB functions described above and, as a consequence, the aviation industry has rapidly grown both in the number of operators and the types of operations conducted. The number of commuter air carriers and on-demand air taxi operators conducting operations under Part 135 has, since 1978, increased from approximately 4,100 to 4,600. While the number of commuter air carriers and on-demand air taxi operators has not increased significantly, there is a turnover of approximately 600 FAA operating certificate terminations and new applications each year. In addition, the complexity of individual operations has increased. Prior to 1958, there were only a few commuter operators using aircraft having a maximum gross weight of 12,500 pounds that were equipped with approximately 13 passenger seats. With the relief provided by the 1978 revision of Part 135 and economic deregulation, commuter operations have increased significantly and are being conducted using increasingly sophisticated equipment, including large turbine powered aircraft configured with 30 or less passenger seats. During this same period, the number of air carriers conducting operations that are subject to the rules of Part 121 has increased from approximately 50 to 150.

The "sunset" of the CAB has resulted in a number of FAA regulations

becoming outdated and therefore inappropriate, including current SFAR 38, because of their reference to CAB requirements and certificates that no longer exist or have taken on a different form or meaning than that intended when the regulations were adopted. In addition, the CAB "sunset" has also contributed to confusion as to what FAA regulations are applicable to a particular air carrier or type of operation the air carrier is conducting. For example, as a result of the manner in which the CAB implemented deregulation and the attendant confusion resulting therefrom, approximately 21 air carriers have been operating scheduled passenger service with aircraft having more than 30 seats or 7,500 pounds payload capacity (large aircraft) under Part 121 supplemental rules rather than Part 121 domestic or flag rules. It is the FAA's position that an air carrier certificated under current SFAR 38 in accordance with the rules of Part 121 must, if it is engaged in scheduled passenger operations, operate in accordance with the rules applicable to domestic or flag air carriers as required by § 121.3(a) or § 121.3(c) and be issued domestic and flag operations specifications. Furthermore, it is the FAA's position that an air carrier engaged in nonscheduled passenger-carrying operations must operate in accordance with the rules applicable to supplemental air carriers in accordance with § 121.3(e) and be issued supplemental operations specifications. The FAA has issued interpretive material to explain the correct application of these rules, but believes that the regulations should be clarified.

Therefore, one of the purposes of the proposed amendment is to clearly define, for each type of operation (e.g., scheduled common carriage within the United States, all-cargo operations, scheduled common carriage outside the United States, etc.): (1) They type of certificate, (2) the certification requirements, (3) the operations specifications, and (4) the regulations within the applicable Parts of the FAR with which an operator must comply when conducting each type of operation.

Because of the difference between the CAB and the FAA definitions of "air taxi" and "commuter," questions have been raised concerning the interpretation and application of these definitions. The CAB regulations, in general, define an air taxi operation as an operation conducted with aircraft having a passenger seating configuration of 60 passenger seats or less and a maximum payload capacity of 18,000 pounds or less, and a commuter as an air taxi who conducts scheduled operations between specified points with a certain frequency. In terms of the FAA regulations, an air taxi operator is a person who is required to conduct operations under the rules of Part 135 and thus would conduct operations with aircraft having a maximum passenger seating capacity, excluding any pilot seat, of 30 seats or less and a maximum payload capacity of 7,500 pounds or less. An air carrier conducting operations with larger airplanes, for example, is required to operate under Part 121. Thus, under the CAB regulations, an air carrier operating airplanes having a passenger seating capacity of more than 30 and less than 60 or a payload capacity of more than 7,500 and less than 18,001 pounds would be an air taxi and could be a commuter, but under the FAA regulations it would be an air carrier holding domestic or flag operations specifications rather than air taxi operations specifications. To the extent that the confusion may be due in part to the fact that FAA regulations do not define a commuter operator, this proposal would make it clear that wherever the term "commuter air carrier" appears in Part 135 of the FAR, it shall be deemed to mean a holder of an "Air Carrier Operating Certificate" that is conducting scheduled passenger carrying operations with a frequency of operations of at least five round trips per week on at least one route between two or more points according to published flight schedules. This frequency of operations is a standard currently accepted by the industry and the FAA for air carrier certification and operation rules. However this definition would not apply to Part 93 of the FAR. Further, a regulation that applies to a commuter air carrier will be deemed to mean a regulation that applies to scheduled passenger-carrying operations conducted under Part 135.

In the past, with a few exceptions, all of the aircraft operated by an air carrier have been in one of the two classes of seating and payload capacities, and thus all operations were either conducted under Part 121 or Part 135, but not both. In recent years, the aviation industry has seen a rapid growth in the number of new types of transport category aircraft capable of carrying between 30 and 61 passengers (e.g., Shorts SD-360 and DeHavilland DHC-7) and designed to be utilized in short haul, high density operations. Many air carriers who previously operated solely as air taxis (under Part 135) are now operating both classes of aircraft and are conducting air carrier operations under Part 121 as well as air taxi or commuter operations under Part 135. Under current regulations, this requires the air carrier to virtually conduct two separate operations, one of which is conducted under Part 121 and the other under Part 135, each with its own crewmembers, training programs, flight control facilities, flight and duty time regulations, etc. A number of these air carriers have proposed that they be allowed to conduct their air taxi or commuter operations under the rules of Part 121 rather than Part 135, to simplify day-to-day operations and reduce or eliminate the duplication resulting from maintaining two separate operations. However, since current SFAR 38 does not provide for such an operation, an air carrier would have to obtain an exemption in accordance with § 11.25 of the Federal Aviation Regulations to conduct an operation under the rules of Part 121 using transport category aircraft that are required by current SFAR 38 to be operated under Part 135. The proposed amendment would allow the Administrator to authorize an air carrier, who would otherwise be subject to Part 135, to elect to conduct its operations with transport category airplanes under Part 121. This would permit an air carrier to conduct all of its operations under Part 121, provided the airplanes involved are transport category airplanes and meet all the requirements of Part 121. It should be noted that, instead of operations of these airplanes under Part 135 as currently required, the proposed amendment would allow an air carrier to operate these airplanes under Part 121 in anticipation of future operations with airplanes that, by virtue of their seating and payload capacities, are currently required to be operated under Part 121. This would give the air carrier exposure to and experience with Part 121 and should reduce the burden and time required to transition to the larger airplanes. However, an air carrier would not, under the proposal, be allowed to operate airplanes subject to Part 121 under Part 135. It should be noted that this proposal is similar to the provision in current SFAR 38 that authorizes air carriers who were operating large aircraft having a maximum passenger seating capacity, excluding any pilot seat, of 30 seats or less on December 1, 1978, in accordance with the provisions of Part 121, to continue to operate under Part 121 as was provided in § 135.2(d) in effect at that time. Air carriers certificating or adding large aircraft to their operations after December 1, 1978, could not use the provisions of § 135.2 or SFAR 38(d). The FAA is aware of only a few air carriers that operate large

transport category aircraft under the "pass-through" provision of SFAR 38(d). The proposed amendment, SFAR 38–2, would delete all references to § 135.2, and any air carrier conducting its operations under the "pass-through" provision would be required to conduct its operations under Part 135, unless its receives authorization from the Administrator to conduct its operations under Part 121. This should not be a significant burden on an air carrier because the transition would be from the more stringent Part 121 rules to the Part 135 rules.

The proposed amendment (SFAR 38–2) also would update SFAR 38 by adding provisions which reference Part 125 which became effective February 3, 1981, and delete the provisions relating to Part 123 which was revoked effective January 1, 1983. Operators who are "non-air carriers" and who are not engaged in common carriage are now required to conduct their operations with airplanes having a seating capacity of 20 or more passengers, or a payload capacity of 6,000 pounds or more under Part 125, unless the operations are required to be conducted under Part 121, Part 135, or Part 137. Part 125 requires travel clubs using such airplanes to operate under Part 125. Operations by "non-air carriers" with airplanes having a maximum passenger seating capacity, excluding any pilot seat, of less than 20 seats and a maximum payload capacity of less than 6,000 pounds must be conducted under Part 135, if the operation is conducted for compensation or hire, except those operations specified in § 135.1(b).

Proposed SFAR 38–2 would require rotorcraft operations that are now conducted under Part 121 or Part 127 to be conducted under Part 135. Part 127 and the related rotorcraft sections of Part 121 have been in effect for nearly 20 years without substantive change. During this period, the air transportation industry has experienced drastic changes in equipment and technology, and the safety regulations governing airplanes have been appropriately upgraded. In sharp contrast, the regulations in Parts 121 and 127 governing rotorcraft have not been similarly upgraded. While there are no certificated rotorcraft operators conducting operations under Part 127 (and none are contemplated), there have been 47 amendments to Part 127. These amendments have not dealt with the regulations in a substantive manner, but are the result of other regulatory changes that impact on Part 127. Thus, there are significant deficiencies in Part 127 and Part 121 rules applicable to rotorcraft that must be addressed prior to certificating any operations under those rules.

Should an operator request authority to operate rotorcraft under Part 121 or Part 127, it would be necessary to precede certification action with rulemaking or develop special operations specifications for that operation to assure a safe operation. On the other hand, the rotorcraft rules in Part 135 are more current. All rotorcraft operators, with the exception of one, are now operating under Part 135. That operator operates under Part 133. Thus, there appears to be no reason to initiate an extensive rulemaking action at this time to update regulations which are not currently needed. The proposed amendment would, in effect, suspend Part 127 and §§ 121.13 and 121.157(e), and require all rotocraft operations to be conducted under Part 135. The FAA has established separate regulations for a class of aircraft with more than 30 passenger seats or payload capacity of more than 7,500 pounds. However there are not significant numbers of rotorcraft or rotorcraft operations at this time to warrant developing separate rotorcraft regulations for this class of large rotorcraft. On the other hand, Part 135 does, at present, provide comprehensive safety standards for the operation of large rotocrcraft. On the other hand, Part 135 does, at present, provide comprehensive safety standards for the operation of existing rotorcraft. If the air transportation industry significantly expands the use of rotorcraft with more than 30 passenger seats or more than 7,500 pounds payload capacity, the FAA will consider developing new rules to provide an appropriate level of safety for this class of rotocraft. However, in the interim, if an operator requests authority to operate this class of larger rotorcraft where safety requirements in addition to those prescribed in Part 135 are appropriate, special operations specifications would be developed and issued.

Present SFAR 38 does not reference foreign air carrier operations. It is deemed appropriate to include in this proposal the substance of the applicability of present Part 129 in order to provide for a comprehensive listing of certification and operations specifications requirements.

Finally, it is proposed to extend the expiration date of SFAR 38. SFAR 38 was adopted as an interim regulation to provide for an orderly adjustment of the Federal Aviation Regulations as a result of changes brought about by the Airline Deregulation Act of 1978 and the termination of CAB functions. Inasmuch as the CAB is scheduled to cease to exist and most of its remaining functions are to transfer to the Department of Transportation on January 1, 1985, all of the changes necessary to accommodate the "sunset" of the CAB may not be evident until after that date. (See Pub. L. 98–443, October 4, 1984.) In order to provide an orderly transition and assure that all required changes are accomplished, it is proposed that SFAR 38–2 be effective to May 1, 1986.

SFAR 38–2 would establish the certification and operating requirements applicable to all operations conducted in air commerce and air transportation for compensation or hire, except external load operations conducted under Part 133, agricultural aircraft operations conducted under Part 137, and training and other special purpose operations conducted under Part 91 that do not require an FAA operating certificate.

Economic Impact

The FAA evaluated the economic impact of the proposed regulatory changes herein. The proposed amendment is not expected to cause an adverse economic impact on the regulated parties because it is essentiallly clarifying in nature. The findings of FAA's evaluation are summarized below and a copy of the draft regulatory evaluation is contained in the docket. The FAA invites comments on the evaluation.

The proposal would (1) specify and clarify certification requirements and regulations operators must comply with in conducting specific operations, (2) include regulations that have been promulgated and delete references to regulations that have been withdrawn since the adoption of Special Federal Aviation Regulation (SFAR) No. 38, and (3) suspend regulations that are no longer applicable.

As previously pointed out, it is the FAA's position that the current regulations require scheduled operations in airplanes with more than 30 passenger seats to be conducted under the domestic or flag air carrier rules. Therefore, there should be no economic impact on the approximately 21 carriers previously discussed as the result of this rulemaking proceeding. Accordingly, no economic analysis is required.

Proposed SFAR 38–2 would suspend Part 127 and require all rotorcraft carriers currently operating under Parts 121 and 127 to conduct their operations under Part 135. Such a change is expected to enhance safety because Part 135 contains safety related requirements for rotorcraft not specified in either Parts 121 or 127. This proposal will not

generate any additional costs to regulated parties. At present, no carrier operates rotorcraft with a capacity in excess of 30 seats or a 7,500-pound payload, which would be subject to the provisions of Part 121 or Part 127. Moreover, commuter operations with large rotorcraft currently do not appear feasible at locations where the geographical distribution of service points make rotorcraft operations viable. The FAA invites comments on these assumptions.

Trade Impact Statement

The FAA finds that the proposed regulations will have no impact on international trade and invites public comment on this finding.

Regulatory Flexibility Determination

The FAA finds that the proposed regulations will have no consequential economic impact on small entities. Accordingly, the FAA finds that an initial regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

Conclusion

For the reasons stated under the heading "Economic Impact," the FAA has determined that this document involves a proposed regulation which: (1) Is not a major rule under Executive Order 12291; and (2) is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). Also, for the reasons stated under the heading "Trade Impact Statement and Regulatory Flexibility Determination," I certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The total projected impact of the proposed amendment may be found in a copy of the regulatory evaluation contained in the public docket. A copy of that evaluation may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Parts 121, 125, 127, 129 and 135

Air carriers, Aircraft, Airmen, Aviation safety, Air taxis, Air transportation, Certification requirements, Common carriers, Operations specifications.

In consideration of the above, the FAA proposes to revise SFAR 38 (14 CFR Parts 121, 125, 127, 129 and 135) to read as follows:

Special Federal Aviation Regulation Number 38–2 Certification and Operating Requirements

Sec.

1. Applicability.
2. Certificates and foreign air carrier operations specifications.
3. Operations specifications.
4. Air carriers and those commercial operators engaged in scheduled intrastate common carriage.
5. Operations conducted by a person who is not an air carrier but is engaged in passenger operations, cargo operations, or both, as a commercial operator.
6. Definitions.

SFAR No. 38–2

Contrary provisions of Parts 121, 125, 127, 129 and 135 of the Federal Aviation Regulations notwithstanding—

1. *Applicability*

(a) This Special Federal Aviation Regulation applies to persons conducting commercial passenger operations, cargo operations, or both, and prescribes—

(1) The types of operating certificates issued by the Federal Aviation Administration;

(2) The certification requirements an operator must meet in order to obtain and hold operations specifications for each type of operation conducted and each type and size of aircraft operated; and

(3) The operating requirements an operator must meet in conducting each type of operation and in operating each type and size of aircraft authorized in its operations specifications.

A person shall be issued only one certificate and all operations shall be conducted under that certificate, regardless of the type of operation or the type or size of aircraft operated. A person holding an air carrier operating certificate may not conduct any operations under the rules of Part 125.

(b) Persons conducting operations under more than one paragraph of this SFAR shall meet the certification requirements specified in each paragraph and shall conduct operations in compliance with the requirements of the Federal Aviation Regulations specified in each paragraph for the operation conducted under that paragraph.

(c) Except as provided under this SFAR, no person may operate as an air carrier or as a commercial operator without, or in violation of, a certificate and operations specifications issued under this SFAR.

2. *Certificates & Foreign Air Carrier Operations Specifications.*

(a) Persons authorized to conduct operations as an air carrier will be issued an Air Carrier Operating Certificate.

(b) Persons who are not air carriers and who are authorized to conduct passenger, cargo, or both, operations as a commercial operator will be issued an Operating Certificate.

(c) FAA certificates are not issued to foreign air carriers. Persons authorized to conduct operations in the United States as a foreign air carrier who hold a permit issued under section 402 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1372), or other appropriate economic or exemption authority issued by the appropriate agency of the United States of America will be issued operations specifications in accordance with the requirements of Part 129 and shall conduct their operations within the United States in accordance with those requirements.

3. *Operations Specifications.*

The operations specifications associated with a certificate issued under paragraph 2(a) or (b) and the operations specifications issued under paragraph 2(c) of this SFAR will prescribe the authorizations, limitations and certain procedures under which each type of operation shall be conducted and each type and size of aircraft shall be operated.

4. *Air Carriers, and those commercial operators engaged in scheduled intrastate common carriage.*

Each person who conducts operations as an air carrier or as a commercial operator engaged in scheduled intrastate common carriage of persons or property for compensation or hire in air commerce with—

(a) Airplanes having a passenger seating capacity of more than 30 seats, excluding any required crewmember seat, or a payload capacity of more than 7,500 pounds, shall comply with the certification requirements in, and conduct its—

(1) Scheduled operations within the 48 contiguous States of the United States and the District of Columbia, including routes that extend outside the United States that are specifically authorized by the Administrator, with those airplanes in accordance with the requirements of Part 121 applicable to domestic air carriers, and shall be issued operations specifications for those operations in accordance with those requirements.

(2) Scheduled operations to points outside the 48 contiguous States of United States and the District of Columbia with those airplanes in accordance with the requirements of Part 121 applicable to flag air carriers, and shall be issued operations specifications for those operations in accordance with those requirements.

(3) All-cargo operations and operations that are not scheduled with those airplanes in accordance with the requirements of Part 121 applicable to supplemental air carriers, and shall be issued operations specifications for those operations in accordance with those requirements; except the Administrator may authorize those operations to be conducted under paragraph 4(a)(1) or (2) of this paragraph.

(b) Airplanes having a maximum passenger seating capacity of 30 seats or less, excluding any required crewmember seat, and a maximum payload capacity of 7,500 pounds or less, shall comply with the certification requirements in, and conduct its operations with those airplanes in accordance with the requirements of Part 135, and shall be issued operations specifications for those operations in accordance with those requirements; except that the Administrator may authorize a person conducting operations in transport category airplanes to conduct those operations in accordance with the

requirements of paragraph 4(a) of this paragraph.

(c) Rotorcraft shall comply with the certification requirements in, and conduct its operations with those aircraft in accordance with, the requirements of Part 135, and shall be issued operations specifications for those operations in accordance with those requirements.

5. *Operations conducted by a person who is not an air carrier but is engaged in passenger operations, cargo operations, or both, as a commercial operator.*

Each person, other than a person conducting operations under paragraph 2(c) or 4 of this SFAR, who conducts operations with—

(a) Airplanes having a passenger seating capacity of 20 or more, excluding any required crewmember seat, or a maximum payload capacity of 6,000 pounds or more, shall comply with the certification requirements in, and conduct its operations with those airplanes in accordance with, the requirements of Part 125, and shall be issued operations specifications in accordance with those requirements, or shall comply with an appropriate deviation authority.

(b) Airplanes having a maximum passenger seating capacity of less than 20 seats, excluding any required crewmember seat, and a maximum payload capacity of less than 6,000 pounds shall comply with the certification requirements in, and conduct its operations in those airplanes in accordance with, the requirements of Part 135, and shall be issued operations specifications in accordance with those requirements.

(c) Rotorcraft shall comply with the certification requirements in, and conduct its operations in those aircraft in accordance with, the requirements of Part 135, and shall be issued operations specifications for those operations in accordance with those requirements.

6. *Definitions.*

(a) Wherever in the Federal Aviation Regulations the terms—

(1) "Domestic air carrier operating certificate," "flag air carrier operating certificate," "supplemental air carrier operating certificate," or "commuter air carrier" appears, it shall be deemed to mean an "Air Carrier Operating Certificate" issued and maintained under this SFAR.

(2) "ATCO operating certificate" appears, it shall be deemed to mean either an "Air Carrier Operating Certificate" or "Operating Certificate", as is appropriate to the context of the regulation. All other references to an operating certificate shall be deemed to mean an "Operating Certificate" issued under this SFAR unless the context indicates the reference is to an air carrier operating certificate.

(b) Wherever in the Federal Aviation Regulations a regulation applies to—

(1) "Domestic air carriers," it will be deemed to mean a regulation that applies to scheduled operations solely within the 48 contiguous States of the United States and the District of Columbia conducted by persons described in paragraph 4(a)(1) of this SFAR.

(2) "Flag air carriers," it will be deemed to mean a regulation that applies to scheduled operations to any point outside the 48 contiguous States of the United States and the District of Columbia conducted by persons described in paragraph 4(a)(2) of this SFAR.

(3) "Supplemental air carriers," it will be deemed to mean a regulation that applies to charter and all-cargo operations conducted by persons described in paragraph 4(a)(3) of this SFAR.

(4) "Commuter air carriers," it will be deemed to mean a regulation that applies to scheduled passenger carrying operations, with a frequency of operations of at least five round trips per week on at least one route between two or more points according to the published flight schedules, conducted by persons described in paragraph 4 (b) or (c) of this SFAR. This definition does not apply to Part 93 of this chapter.

(c) For the purpose of this SFAR, the term—

(1) "Air carrier" means a person who meets the definition of an air carrier as defined in the Federal Aviation Act of 1958, as amended.

(2) "Commercial operator" means a person, other than an air carrier, who conducts operations in air commerce carrying persons or property for compensation or hire.

(3) "Foreign air carrier" means any person other than a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation.

(4) "Scheduled operations" means operations that are conducted in accordance with a published schedule for passenger operations which includes dates or times (or both) that is openly advertised or otherwise made readily available to the general public.

(5) "Maximum payload capacity" means:

(i) For an aircraft for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, foods and beverages, and supplies and equipment related to foods and beverages, but not including disposable fuel or oil).

(ii) For all other aircraft, the maximum certificated takeoff weight of an aircraft, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(A) Crew—200 pounds for each crewmember required by the Federal Aviation Regulations.

(B) Oil—350 pounds.

(C) Fuel—the minimum weight of fuel required by the applicable Federal Aviation Regulations for a flight between domestic points 174 nautical miles apart under VFR weather conditions that does not involve extended overwater operations.

(6) "Empty weight" means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(7) "Maximum zero fuel weight" means the maximum permissible weight of an aircraft with no disposable fuel or oil. The zero fuel weight figure may be found in either the aircraft type certificate data sheet, or the approved Aircraft Flight Manual, or both.

(8) For the purposes of this paragraph, "justifiable aircraft equipment" means any equipment necessary for the operation of the aircraft. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an aircraft to meet the maximum payload capacity.

Special Federal Regulation 38-2 terminates May 1, 1986, unless sooner superseded or revoked.

(Secs. 313, 601, 603, 604, 1102 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, 1424, 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

Issued in Washington, D.C., on October 10, 1984.

John S. Kern,

Acting Director of Flight Operations.

[FR Doc. 85-2274 Filed 1-29-85; 8:45 am]

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federal register

Wednesday
January 30, 1985

Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Health Care Financing Research and Demonstration Cooperative Agreements and Grants and Availability of Funds for Cooperative Agreements and Grants; General Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[ORD-051-N]

Medicare and Medicaid Programs, Health Care Financing Research and Demonstration Cooperative Agreements and Grants and Availability of Funds for Cooperative Agreements and Grants

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

ACTION: General notice.

SUMMARY: This notice announces the availability of HCFA funds for certain priority research and demonstration cooperative agreements and grants for the Federal fiscal year 1985. HCFA makes funds available for activities that will help to resolve major health care financing issues or to develop innovative methods for the administration of Medicare and Medicaid. This notice contains information about the subject areas for cooperative agreements and grants that will be given priority; project requirements; application procedures and other pertinent information. It also cancels the February 4, 1985 closing date for HCFA waiver-only applications that was announced on November 9, 1983.

DATES: Closing dates for submission of grant applications are presented in section VI of this notice.

Application Kits

Standard application forms and guidance for the completion of the forms are available from:

Paul McKeown, Health Care Financing Administration, Office of Management and Budget, Projects Grants Branch, Room 389 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, (301) 594–3333.

FOR FURTHER INFORMATION CONTACT: Frances D. Lariviere, Health Care Financing Administration, Office of Research and Demonstrations, Office of Operations Support, Area 2–B–12, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, (301) 594–7476.

SUPPLEMENTARY INFORMATION: This notice solicits cooperative agreement and grant applications for HCFA research and demonstration projects in priority areas and announces the total amount of funds estimated to be available for each of the priority areas during the Federal fiscal year (FY) 1985 (October 1, 1984 through September 30, 1985). These amounts reflect funds available for both new projects as well as for the continuation of existing projects. They are subject to change as a result of specific actions which may be taken in the future to reduce the overall Federal budget deficit. In addition, the actual funding in each priority area may vary from the estimated amounts depending on the number of quality applications received in the areas.

The notice describes the application procedures; general policy considerations; criteria to be used in reviewing applications; and selection criteria for HCFA cooperative agreements and grants. This notice replaces the notices previously published in the **Federal Register** on November 9, 1983 (48 FR 51538), and August 3, 1984 (49 FR 31157). We do not intend to publish the separate special solicitations for hospital prospective payment systems and physicians' reimbursement referred to in our August 3 document as the present notice includes these two priorities.

Projects that request waivers only do not involve requests for discretionary funds, but rather include requests only for waivers of statutory provisions necessary to conduct a project. Waiver-only projects also include projects that involve only requests to consider as reimbursable or matchable those expenditures that are normally not reimbursable or matchable under applicable law but which, by virtue of an authority such as section 1115(a)(2) of the Social Security Act (42 U.S.C. 1315(a)(2)), may be so considered. This notice cancels the February 4, 1985 closing date for HCFA waiver-only applications for pilot, experimental, and demonstration projects that was contained in the standing grants and waiver-only announcement on November 9, 1983 (48 FR 51538). The notice also announces the new closing dates for cooperative agreements and grants for fiscal years 1985, 1986, and 1987.

For fiscal year 1985, we will have one closing date, April 15, 1985, for applications requesting discretionary funds or waivers of statutory provisions necessary to conduct a project. The schedule is as follows:

FY 1985 (10/1/84–9/30/85)

Monday, April 15, 1985 waiver-only applications *and* applications requesting discretionary funds.

Beginning with FY 1986 (October 1, 1985 to September 30, 1986), we will have a semi-annual review of waiver-only applications. The closing dates for these solicitations will be the first Monday in November and May of each year.

In addition, the first Monday in November of each year will be the closing date for applications requesting discretionary grant funds.

Therefore, beginning with November 4, 1985 (for FY 1986), the schedule for closing dates for applications will be as follow:

FY 1985 (10/1/85–9/30/86)

Monday, November 4, 1985: waiver-only applications *and* applications requesting discretionary funds.

Monday, May 5, 1986: waiver-only applications.

I. Availability of Funds for Cooperative Agreements and Grants

A. General

A review of the requirements for existing projects and our expected FY 85 budget indicates that up to $6 million may be available to HCFA's Office of Research and Demonstration (ORD) to fund new cooperative agreements and grants for research and demonstration projects in the priority areas listed below in section II.D.

Applications for cooperative agreements and grants may be submitted to HCFA by private or public non-profit agencies or organizations, including State agencies that administer the Medicaid program. Private for-profit organizations may apply for cooperative agreements and grants (discretionary funds) under section 1110(a)(1) of the Social Security Act, section 402(a)(1) of the Social Security Amendments of 1967 (Pub. L. 90–248), as amended, and section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603), as amended.

B. Authorities

Our authority for making these awards is based on—

1. The Social Security Act, title XI—section 1110, Cooperative Research or Demonstration Projects (42 U.S.C. 1310) and section 1115(a), Demonstration Projects (42 U.S.C. 1315(a));

2. The Social Security Act, title XVIII—sections 1875, Studies and Recommendations (42 U.S.C. 1395) (for cooperative agreements only) and section 1881(f), End Stage Renal Disease Experiment and Pilot Projects (42 U.S.C. 1395rr(f));

3. Section 402 of the Social Security Amendments of 1967 (Pub. L. 90–248), as amended, Experiments and Demonstration Projects (42 U.S.C. 1395b–1);

4. Section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603), as

amended, Experiments and Demonstration Projects (42 U.S.C. 1395b–1 (note));

5. Section 603 of the Social Security Amendments of 1983 (Pub. L. 98–21), Reports, Experiments, and Demonstration Projects; and

6. Section 605(b) of the Social Security Amendments of 1983 (Pub. L. 98–21), Report on Hospital-Based Skilled Nursing Facilities (42 U.S.C. 1395x(v)(1)(E) (note)).

In the discussion below, we refer to the Social Security Act simply as "the Act".

C. Regulations

General policies and procedures that govern the administration of all Department of Health and Human Services (HHS) cooperative agreements and grants are located in Title 45 of the Code of Federal Regulations (CFR), Part 74. All applicants are urged to review the uniform requirements established in those regulations.

D. Number and Size of Projects

Most awards range from $35,000 to $275,000 per year. We may also award some projects for larger amounts. The number, size, and amount of cooperative agreements and grants depends on the—

1. Availability of funds;

2. Needs of projects that are continuing from prior years;

3. Priority interest areas established by HCFA; and

4. Technical quality of applications.

E. Duration of Funding

We fund projects for a period of one year at a time and may continue funding on a non-competitive basis, generally for up to three years, if we awarded the original cooperative agreement or grant as a multiple year project. Continuation funding is contingent on the availability of future year funds, the applicant's ability to meet prior year project objectives, and the continued relevance of the project to HCFA programs.

We treat applications that seek to continue a project for a longer period of time than that stated in the original cooperative agreement or grant award as new projects. Thus, they must compete for available funds, and we will review these applications competitively along with all other new applications.

F. Special Solicitations

As the need arises for special projects, we may announce special solicitations in the **Federal Register**.

II. Cooperative Agreements and Grants Subject Matter

A. General Considerations

The cooperative agreements and grants we award are intended to assist in the resolution of major health financing issues or in developing new methods for the administration of HCFA programs.

The HCFA cooperative agreement and grants program focuses primarily on analyses, experiments, pilot projects and demonstrations that provide information useful for the Medicare and Medicaid programs. For FY 85 we have identified a number of areas where specific information or operational experience is necessary to improve program effectiveness or guide decisions anticipated in the near future. A detailed description of these priority areas is set forth in section II. D. 2 below.

Applications for priority area cooperative agreements and grants must be limited to one priority. Applications that fit one of the priority areas will be considered as solicited. Applications that do not fit one of the priority areas will be considerd unsolicited applications and will be reviewed by a special panel, or by a panel appointed for a priority area that has the technical expertise most closely related to the subject of the unsolicited application, as discussed below in section V.

B. Cooperative Agreements and Grants

The principal purpose of HCFA's cooperative agreements and grants program is to stimulate and support statutorily authorized research and demonstrations projects.

1. *Cooperative agreements.*—Cooperative agreements will generally be awarded when *substantial involvement* is anticipated between HCFA and the awardee during performance of the contemplated activity, whereas grants will normally be awarded whenever no substantial involvement is anticipated with the awardee. HCFA will decide which award instrument, cooperative agreement or grant, is appropriate for each project.

Cooperative agreements are subject to at least the following provisions if appropriate—

a. HCFA's review and approval of one project stage before another can begin;

b. HCFA's approval in the selection of sub-contracts;

c. HCFA's involvement in the selection of key awardee personnel;

d. HCFA's monitoring to permit specified kinds of direction or redirection of the work;

e. HCFA's stringent pre-award requirements limiting recipient discretion with respect to scope of work and services offered;

f. HCFA's operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with the regulations in 45 CFR Part 74.

All cooperative agreements will include an explicit statement of the nature, character, and intent of anticipated Federal programmatic involvement to ensure that the responsibilities of both parties are understood. Each cooperative agreement will incorporate 45 CFR Part 74 among its terms and conditions for fiscal and administrative requirements.

Cooperative agreements will not be awarded to a State Medicaid agency for section 1115 projects in which only waivers of Federal regulations or costs not otherwise matchable under section 1115(a)(2) are approved to carry out a demonstration. The instrument to be used for such an award will be a grant without discretionary funds for waivers and costs authorized under section 1115(a)(2).

Cooperative agreements may be awarded for section 1115 projects with discretionary funds, even if waivers and costs under section 1115(a)(2) are also involved. In such cases, the cooperative agreement conditions will release to the operation and management of the entire project. Cooperative agreements may be used for projects awarded under all other authorizes listed in section I. B. above.

2. *Grants.*—For grants, HCFA's limited involvement generally will include—

a. Approval of the awardee's plans prior to award;

b. Exercise of Federal stewardship responsibilities during performance, for example, site visits, review and response to performance and financial reports, and audits to ensure that objectives, terms, and conditions of the award are accomplished;

c. Involvement when needed to correct deficiencies in programmatic or financial performance by the awardee;

d. Review of performance after project completion, and enforcement of general fiscal and administrative requirements such as those included in 45 CFR Part 74.

3. *General.*—HCFA may suspend or terminate any cooperative agreement or grant in whole, or in part, at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the cooperative agreement or grant. HCFA will promptly notify the

awardee in writing of the determination and the reasons for the suspension or termination together with the effective date. In addition, HCFA reserves the right to withdraw waivers at any time if it determines that continuing the waivers would no longer be in the public interest. If a waiver is withdrawn, HCFA will be liable only for normal close-out costs.

C. Waivers

Researchers who wish to conduct demonstrations that would require Medicaid rules to be waived must coordinate their applications with the appropriate State Medicaid agency. State or private agencies that wish to ask for Medicaid or Medicare waivers are strongly encouraged to coordinate with researchers or research firms in order to ensure that the experimental design and evaluation protocol are of the highest quality.

1. *Section 1115(a) Projects.* Under section 1115(a)(1) of the Act, compliance with statutory Medicaid State plan requirements (section 1902 of the Act) may be waived in order to enable a State Medicaid agency to carry out a demonstration project that will further the general objectives of the Medicaid program.

Under section 1115(a)(2) of the Act, we may consider costs of an 1115(a) project that otherwise would not be included properly as expenditures under the State plan and thus subject to Federal financial participation.

Unless they are specifically waived, all requirements of the Act, the Code of Federal Regulations, and other issuances that pertain to the Title XIX program apply to a project approved under section 1115(a).

If a State Medicaid agency applies for a section 1115(a) project, *special attention should be given to the preparation of the budget.* The agency must provide estimates of the cost or savings attributable to the demonstration project, as opposed to the normal Federal program costs. That is, the agency must furnish the estimated yearly cost before waivers, and after waivers, for both service costs and administrative costs. These budgets are substanatially more extensive than the budget for other applications (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application, form HCFA–PG–11). (See paragraph 3 below for methodology for estimating costs.)

If the application is approved, the quarterly expenditures must be reported to the Office of Research and Demonstrations (ORD), HCFA, in the form to be designated in the special terms and conditions of approval.

2. *Other Waivers.* Waivers of the requirements of titles XVIII and XIX of the Act, and of corresponding HCFA regulations, may be requested for projects conducted under section 222(a) of the Social Security Amendments of 1972, as amended, and section 402 of the Social Security Amendments of 1967, as amended. The waivers requested must relate to an experimental or demonstration project that involves changes in the benefit package or method of payment. In applying for these waivers or changes in reimbursement or Federal financial participation, the applicant must provide sufficient budgeting information to permit estimates of the likely cost or savings of the project compared to the normal Federal program costs. That is, the application must furnish the estimated yearly cost, before waivers and after waivers, for both program and administrative costs. (See paragraph 3 below for methodology for estimating costs.)

If the application is approved, the awardee must furnish quarterly expenditures in the manner designated by ORD in the special terms and conditions of the cooperative agreement or grant.

3. *Methodology for Estimating Gross Cost of Projects Involving Waivers.* HCFA will define the methodology to be used in estimating gross and net waiver costs. A description of this methodology may be obtained by contacting the individuals named at the beginning of this notice. This methodology is subject to change and applicants are therefore instructed to ensure they are using the most current methodology for future solicitations.

D. Current Priorities

1. *Preliminary Note on HCFA Data Sources for Projects.* A description of our current priorities for this general solicitation follows. As a special note, public use files from the National Medical Care Utilization and Expenditure Survey (NMCUES) became available in September 1983. This survey was in HCFA co-sponsored project with the National Center for Health Statistics and contains information concerning many of the current priority areas. The NMCUES collected detailed and extensive data concerning health care utilization and expenditures. Data concerning employment, income, health status, health insurance, access to care, and sociodemographics were also collected. Public use data files are available from the National Technical Information Service (NTIS) for $425. Further information concerning NMCUES is available in "Procedures and Questionnaires of the National Medical Care Utilization and Expenditure Survey", Series A, Methodology Report No. 1, DHHS Publication No. 83–20001. Mr. Robert Wright of HCHS is available at 301–436–7100 for further information concerning the public use files. We welcome applications that plan to utilize this resource.

In certain circumstances HCFA/ORD will make available to awardees data that may be applied to the specific objectives of their project. For more information on the content of the data sets and other available data see the special report in the fall 1983 issue of the *Health Care Financing Review* entitled, "The Potential Use of Health Care Financing Administration Data Sets for Health Care Services Research" (Lave, Dobson, and Walton, 1983). A copy of the article may be obtained from:

ORD Publications and Information Resources, Room 2E6, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, (301) 597–2422

After applicants have familiarized themselves with the HCFA data sets sets and believe they can develop an application using HCFA data, additional specific information on data availability may be obtained from:

Lester Cohen, Office of Research and Demonstrations, Office of Operations Support, P.O. Box 11972, Baltimore, Maryland 21207–0972, (301) 594–7500

2. *Solicited Projects.* As noted above, if the need for a special project arises in addition to these priorities, we will publish a special solicitation in the **Federal Register.** The priority areas may be modified at any time prior to 60 days before the closing dates presented in section VI, below.

The priorities which follow have been developed to take into consideration ORD's short-term, mid-term, and long-term goals for the periods FY 85–86, FY 87–89, and FY 90. The amounts set forth as the proposed total level of funding for all projects (both new and existing) in each area for FY 85 reflect the relative priority we are placing on each area during this fiscal year. As previously mentioned, actual spending in each area is dependent on the number of quality applications received as well as any reductions in funding in order to reduce the Federal budget deficit.

ORD's research and demonstration agenda will be composed of three distinct but highly interrelated plans for the short-term, mid-term and long-term

goals. In the short term, our efforts will be directed toward impact analysis and further refinement and extension of the Medicare hospital prospective payment system as well as development of the data bases which will enable HCFA to reform payment methods for physician, skilled nursing facility, home health and other services. HCFA will also be closely monitoring the progress of the Medicaid program as it changes under the influence of recent legislation. In the mid term, our efforts will be directed toward the development of studies and experiments designed to test significant changes and modifications to the current programs. In the long term, our efforts, for the most part, will focus on major structural changes to the payment or delivery systems of the Medicare and Medicaid programs.

Short-Term Goals: Our short-term goals will be to analyze the Medicare and Medicaid programs. Major initiatives include our ongoing studies of beneficiary access and utilization, our examination of recent changes in Medicaid legislation, our monitoring and refinement of the hospital prospective payment system, and our study of alternative physician payment methodologies. In addition, we expect to conduct demonstrations designed to enhance health maintenance organization (HMO) provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) (TEFRA).

Mid-Term Goals: Our mid-term efforts will be directed toward further development of innovative reimbursement methodologies for both institutional and physician providers, exploring alternatives to long-term care and assessment of the impact of emerging technologies. An important part of this research includes the development and testing of alternative prospective payment systems for other parts of the Medicare program (e.g., long-term care, clinical laboratory services, ESRD services, home health services and durable medical equipment). All of these systems will be structured in a way to maximize the positive effects of introducing competition into the health care marketplace.

Long-Term Goals: In the long term we will anticipate major changes to the Medicare and Medicaid systems. Foremost among these is the potential conversion of the Medicare and Medicaid programs from a reimburser of health services to an agency which would purchase health services or encourage beneficiaries to shop for high quality health services. The aim would be to maximize the government's ability to define its financial obligation and the beneficiaries' freedom of choice among health care options, while minimizing the size of the government bureaucracy necessary to manage the program. In addition, providing a choice among health care options would give the beneficiary greater flexibility for the selection of services required.

Hospital Payment ($8.2 million)

The Social Security Amendments of 1983 (Pub. L. 98–21) established a prospective payment system (PPS) for most hospitals participating in the Medicare program. Section 603 of Pub. L. 98–21 directed the Secretary to study a number of issues relating to PPS, including the impact of PPS on the health care delivery and financing systems; the expansion of prospective payment to hospitals not now subject to the system and to all other third party payors; and the refinement of case-mix (diagnosis related group (DRG)) reimbursement. In addition to these Congressionally mandated studies, other aspects of the legislation, such as the need to recalibrate DRG weights at least every four years and the authority to make payment adjustments to hospitals, as required for purposes of equity in payment, result in additional areas of study interest. Sections 2311(e) and (f) of the Deficit Reduction Act of 1984 (Pub. L. 98–369), directed the Secretary to carry out a number of studies, reflecting a continuing need for improved understanding of the impact of PPS as well as of specific issues within PPS. In addition, Congress has expressed interest on the impact of the new prospective payment system on the structure of the blood banking industry. (H.R. Rep. No. 98–911, 98th Cong. 2nd Sess., pgs. 88–89)

Medicare's PPS employs a system of DRGs based on International Classification of Diseases, 9th Revision, Clinical Modification (ICD–9–CM), because that was the only case-mix measurement system for inpatient stays tested and ready for implementation in 1982, when PPS was developed. However, there continue to be questions regarding whether this system is resulting in categories which are sufficiently homogeneous from both the clinical and resource requirement perspectives so that equitable payments can be made across the nation's hospitals. Other systems are emerging, such as Patient Management Categories developed by Blue Cross of Western Pennsylvania; and Disease-Staging as developed by Systemetrics, which uses the Uniform Hospital Discharge Data Set to classify cases. Johns Hopkins University has developed a system for scoring severety of illness from reviews of medical records; and George Washington University and some commercial consulting firms have developed classification systems involving physiologic measures and standards. HCFA has supported a great deal of this past research and remains interested in supporting research and demonstration projects that would improve case-mix measurement and test alternative case-mix measurement systems for prospective payment of inpatient hospital care or other health care, (e.g., outpatient departments or ambulatory care) and test alternative case-specific payment systems for Medicare or other payors.

We also want to gain a better understanding of whether and how patients treated in physician offices are medically different from patients treated in hospital outpatient or ambulatory settings, and whether the care which medically-similar patients receive differs by setting.

We are also interested in gaining a better understanding of the specific features of the hospital environment. The subject of these projects should include the characteristics of major types of hospitals, such as teaching institutions, regional referral centers, inner-city institutions, publicly-owned hospitals, sole-community hospitals, etc. Of special interest would be projects which seek to determine how voucher systems might be established and what impact these systems might have on hospital efficiency, solvency, capital formation, and outpatient access.

We are also interested in projects that would develop, refine, test, and evaluate new payment approaches for acute and subacute care episodes and which would involve one payment for most or all services utilized by patients during these episodes. These projects may include payments for the services of all physicians during the stay, skilled nursing facility services rehabilitative services, and payments for home-based services. They also would include approaches which would make a single or combined payment to the hospital when the hospital has directly provided or has arranged for the provision of the subacute services, or payment of a fixed amount to other organizations.

We are also interested in projects that examine the effect of hospital prospective payment on all providers, especially how PPS affects utilization of skilled nursing facility benefits, home health benefits, and rehabilitation and swin bed services. Related to this are projects which focus on acute care utilization, physicians, hospital, and

other services furnished to nursing home patients.

Physician Payment ($3.4 million)

Although interest in reforming physician payment methods has existed since the Medicare program was established, the breadth and intensity of such interest has never been higher than today. Section 603(a)(2)(B) of Pub. L. 98–21, mandated that a report be submitted to Congress on the feasibility and advisability of reimbursing physician services for inpatients on a DRG basis. In Pub. L. 98–369, Congress advanced the date for receipt of that report to July 1985, froze Medicare payments to physicians, establishing a participating physician program, froze charges of non-participating physicians, directed the Office of Technology Assessment to conduct a study of physician reimbursement, and required HCFA to prepare a report on the effects of the physician fee freeze. The Social Security Advisory Council recommended selective use of fee schedules. The President's Private Sector Survey on Cost Control recommended moving toward area spending targets, capitation approaches, and use of Preferred Provider Organizations (PPOs). Medically oriented organizations including the Institute of Medicine of the National Academy of Sciences, the American Medical Association, the American College of Surgeons, American College of Physicians, and the American Society of Internal Medicine have announced their interest in performing or participating in projects aimed at reforming third party payments to physicians. Applicants are encouraged to familiarize themselves with these reports, activities, and legislation, and the relevance of their application to physician payment reform issues of national or regional interest.

We are extremely interested in projects which would assist in the gathering and analyses of information, or in planning arrangements and designs for implementation of physician payment reforms that might be appropriate for Medicare or Medicaid. These Medicare or Medicaid projects should encompass either all physician care, all physician care for inpatients, or all non-hospital physician care. Such projects should consider unit of payment options, pricing alternatives, risk-sharing options with providers or insurers (e.g., medical staffs, carriers, etc.), case-mix measurements or severity adjustments, and consumer and practitioner information requirements that might be utilized in physician payment reform.

We are also very interested in projects which would examine the effects of a Medicare voucher system on physician participation, incomes, and specialty and location choices.

HCFA has supported several of the innovative health care plan, Independent Practice Association (IPA) type arrangements which have incorporated physician payment into overall (i.e., combined Medicare Part A and Part B) capitation arrangements. We continue to be interested in projects that design or test prospective payment methods for physician services which complement the Medicare prospective payment system for hospitals. These projects would include approaches which combine hospital and physician payments, as well as approaches which combine all Part B services into a separate prospective payment scheme. This latter approach might include combinations of area budgeting or spending targets, special physician participation arrangements (such as Preferred Provider Organization (PPOs)). competitive bidding for services, payment by type of case or capitation, carrier or health plan participation in risk-sharing on a for-profit venture basis, and consumer information and incentives for utilizing participating physician services.

State Programs for Long Term Care ($4.0 million)

Medicaid is a principal source of funding for long term care (LTC) in the United States. Between 1973 and 1982, LTC expenditures under Medicaid increased from $3.4 billion to $13.2 billion, an average annual rate of increase of 18.5 percent. This growth rate is the fastest for any health service area, and is expected to continue to increase in the future, due in part to demographic trends. Medicaid is a program operated and funded by States. The Federal government shares in the funding of the Medicaid program through the Federal matching percentage rate established for each State. Since we share in the financing of this program, and in view of the anticipated growth in costs, we share the States' particular interest in State and locality-developed projects that would provide a better understanding of the current LTC delivery and financing systems under Medicaid and that would design and test alternatives to these systems. Various researchers have conducted initial descriptive efforts concerning the design of alternative payment systems, case-mix methodologies, and other approaches that affect cost and quality of LTC. Examples of these studies are: Birnbaum, et al., Abt Associates, Inc. (1981); Grimaldi and American Enterprise Institute (1981); Spitz and Urban Institute (1981); and Shaughnessy, et al., Center for Health Services Research, University of Colorado (1980, 1982). Specifically, there is interest in the following types of State and locality-developed projects:

- State and locality-developed projects which test alternative financing schemes for LTC services, including patient-related or case-mix based prospective payment and competitive bidding systems for skilled nursing facility and intermediate care facility levels of care; State and locality-developed projects which demonstrate the integration of payment for the continuation of services; and approaches which expand private risk-sharing for LTC costs, such as private LTC health insurance models, reverse annuity programs, life care centers, and various State tax incentive programs.
- State and locality-developed projects which assess the effects of innovative State, local, and private programs to promote home care by the family or by other community support arrangements. For example, State and locality-developed research and demonstration projects which focus on LTC populations such as Alzheimer's patients, or institutionalized elderly, or persons at risk of institutionalization because they have no family network, for the purpose of testing cost effective methods of providing in-home or other support services (adult day care, adult foster care or shared housing) which substitute for or deter the institutional care of such patients.
- Projects which study the extent of the problem and alternative solutions as to why Medicaid patients in the absence of medical need, continue to stay in institutions.
- State and locality-developed projects which design and test criteria to identify institutionalized individuals who are potential candidates for non-institutional care, and non-institutionalized persons who are at risk of institutionalization.
- State and locality-developed projects which demonstrate and evaluate the effects of a single payment system for the acute and subacute on LTC institutions and networks.
- Projects which examine the characteristics of the Medicaid spenddown population (its size and rate of spenddown) and its impact in the provision, delivery, and utilization of LTC services, and States' ability to finance acute care services.

Alternative Payment Systems ($9.0 million)

We are interested in supporting research and demonstration projects that develop and test payment systems that provide incentives to Medicare and Medicaid beneficiaries to be informed purchasers of health care services, including comprehensive payment systems and consumer information projects that support such systems. Specific examples of these types of projects are as follows:

• *Intermediary-at-Risk.* Projects which test the intermediary-at-risk payment system, which is a payment system under which reimbursement for Medicare Part A and B services and for administrative services, would be capitated for all beneficiaries in a specific geographic area. For example, the "intermediary" would be at risk for all costs which exceed a fixed price such as 95 percent or *less* of the Adjusted Average Per Capita Cost (AAPCC) and could keep some or all savings. Due to the uniqueness of the Medicare requirements relating to coverage, claims processing, and cost reimbursement, applicants would need to be existing Medicare carriers or intermediaries. They may introduce their own alternative reimbursement approaches in order to induce change in consumer behavior. However, the organization cannot restrict freedom of choice of beneficiaries, nor may it restrict competitive efforts of providers including existing health maintenance organizations (HMOs) and competitive medical plans (CMPs) in the area.

• *Preferred Provider Organizations.* Projects that test the cost-effectiveness of the preferred provider concept in a fee for service setting for Medicare beneficiaries. Preferred provider organizations (PPOs) may offer services at a reduced cost to beneficiaries and may waiver coinservance and deductible amounts. The use of services from the non-PPOs would not be restricted. Applicants must propose a method to track and monitor reimbursement as well as quantity and type of services proivded by both preferred providers and non-preferred providers. Services covered may include only those covered by Medicare Parts A and B.

• *Independent Broker Model.* Projects that facilitate more informed Medicare beneficiary consumer choice through the awareness of costs and service options available in specific geographic areas. The independent broker could be responsible for a variety of tasks including marketing and enrolling beneficiaries for specific offerings. Applicants should indicate the extent to which cooperation would be obtained from HMOs and other providers offering to participate in the project. Waivers will not be granted for delivery systems as an inducement for participation in or cooperation with a broker.

• *Voucher Systems.* Projects that would design and test the direct provision of vouchers to Medicare beneficiaries or Medicaid recipients in a specific geographic area for the purchase of health services. Such projects would provide Medicare or Medicaid patients the opportunity to select among alternative health plans comprised of a broad range of health care organization models.

• *HMO Performance.* Health care costs in HMOs are generally lower than in the fee-for-service sector. The capitation approach contains incentives for efficiency and resource use awareness. Recent studies have also suggested that part of the reason for lower rates in HMOs may be favorable selection of low users of health care. We are interested in projects which would address further the question of biased selection for Medicare, Medicaid, or other populations. We are also interested in projects on how HMOs achieve their savings, including comparisons of the types and quality of services received and longitudinal status in HMO and fee-for-service populations.

• *Adjusted Average Per Capita Cost.* Medicare reimbursement to HMOs is based on the Adjusted Average Per Capita Cost (AAPCC) formula. The formula uses age, sex, welfare status and institutional status as factors to predict the per capita amount that would be payable if Medicare services for HMO members were furnished in the local fee-for-service market. We are interested in projects that would test modifications of the current reimbursement system based on the AAPCC. In addition, in an effort to further refine the AAPCC methodology by making it a more accurate predictor and minimizing the chance for bias, we are interested in projects that test new or revised adjustors, such as health status, disability, etc. The present AAPCC formula reflects geographic variations in Medicare per capita expenses. We are interested in projects to develop ways to pay HMOs that would correct for geographic differences based on such factors as inappropriate utilization or excessive variance in provider treatment styles. We are also interested in projects which would develop refinements to the AAPCC methodology. In particular, we are concerned about developing pricing techniques that will generate fair prices when only parts of a market are being considered (e.g., one HMO providing services to a limited number of beneficiaries).

• *Competitive Bidding for Services.* HCFA is interested in projects that would demonstrate and evaluate systems for competitive bidding for capitated services (Medicare or Medicaid or both).

• *Long-Term Effects of Competition.* It has been argued that competition among health plans, will reduce cost. However, lack of understanding of the effects of switching among plans, of possible biased selection of low cost plans by healthy persons, and of exactly how HMOs achieve their savings make it difficult to estimate the long-term effects of competition on costs. We are interested in analyses of the competitive process to understand better what a competitive environmental might lead to in terms of costs, provider behavior, organization of health services and impact on Medicare and Medicaid beneficiaries.

• *Alternative Reimbursement Approaches for End-Stage Renal Disease (ESRD).* Projects that would test the cost-effectiveness of alternative reimbursement approaches for ESRD treatment. Such approaches might include the design and implementation of a voucher system and competitive bidding to encourage the delivery of ESRD services at a lower cost than is now possible under existing reimbursement systems. The reimbursement system proposed should address what services are to be covered (all medical care, ESRD-related medical care, maintenance dialysis only), how the level of payment would be established (home or center dialysis), and the quality assurance safeguards that would be established.

Program Analysis and Evaluation ($5.9 Million)

We are interested in two major areas of program analysis: Impact of program changes, and factors influancing program performance.

Impact of Program Changes. Congress has recently enacted legislation which has improved greatly the effectiveness and efficiency of the Medicare and Medicaid programs.

These enactments include:

• Under Medicare—prospective payment for hospitals, encouragement of HMO enrollment, provision of the hospice benefit for terminally ill patients, and liberalization of the home health benefit.

• Under Medicaid—introduction of home and community-based services as an alternative to institutionalization, provision for new reimbursement methods, and waiver of freedom of choice of providers.

We have planned a variety of intramural research and extramural research efforts to gauge the impact of these changes. The focus of our projects is primarily national and the projects generally rely on centrally maintained records of Medicare claims submitted for payment and a central system of aggregate level Medicaid statistics. Additionally, program analyses in HCFA rely on data generated from major national surveys sponsored by the Federal Government.

We are interested in supplementing these projects and expanding our understanding of the impact of these changes. Because of our support of the national surveys, we are not interested in funding additional broad-based data collection efforts. Among the surveys for which data are (or shortly will be) available are the following: The 1980 National Medical Care Utilization and Expenditures Survey (NMCUES), the 1982 Long Term Care Survey of the Functionally Impaired Aged, and the Health Interview Surveys (HIS). Highest priority will be given, therefore, to projects which can take advantage of special data bases already available to the investigator of which can be developed with modest expense. Projects are solicited which focus on the effects of the changes mentioned above, and their cost and other impacts in the Medicare and Medicaid programs on the following: patients hospitalized for specific conditions; particular subgroups of the Medicare and Medicaid population; and specific aspects of the health care industry.

Factors Influencing Program Performance. We are also interested in projects that focus on fundamental issues which relate to meeting program objectives, including the following:

a. Determining effectiveness and efficiency in the provision of services funded by Medicare and Medicaid;

b. Describing and interpreting differences in patterns of care, particularly geopraphic variations and measurable quality differences attendant to geographic variations.

c. Measuring access to care, equity in the use of and expenditures for resources, and the barriers to the receipt of needed services; and

d. Developing information about beneficiary knowledge of the programs, the deterrence of overutilization, and the encouragement of cost-effective, preventive, and wellness care.

We have several major analyses underway to develop information and knowledge relating to certain aspects of program objectives. Current intramural research efforts include new analyses of the outcome of particular surgical procedures, efforts to determine the use and cost of services for the disabled under Medicare, efforts to determine the use and costs of care for high-risk infants and children under Medicaid, and projects addressing the elderly dually-entitled (Medicare and Medicaid) population. We have also funded a project to develop new knowledge about geographic variations in the use of inpatient hospital care under Medicare.

We are interested in additional program analyses to supplement these efforts. As with program change projects, highest priority will be given to projects which can take advantage of special data bases already available to the investigator and to projects which propose new linkages of available data bases. We are interested in projects which focus on specific aspects of program performance and which have the potential for providing substantive new knowledge and understanding in this area. Of special interest are projects that offer to test hypotheses or build and test models of the behavior of beneficiaries or providers and that have the potential of providing an improved understanding of the use and costs of Medicare and Medicaid services.

Quality and Coverage ($2.5 million)

In order to assess the impact of program changes on the quality of health care furnished to program beneficiaries, as well as to ensure continuation of quality care, we are interested in developing and refining valid quality of care measures for different treatment settings. Therefore, we are interested in projects which develop, demonstrate, and evaluate quality of care measures for nursing homes and home health agencies, and refined quality of care and outcome measures for inpatient hospital services; as well as the development and demonstration of monitoring systems for quality of care, (particularly in the capitated environment).

We are also interested in research and demonstration projects that assess the cost-effectiveness and benefits of new procedures, treatments, and services, particularly in high cost areas. Projects should consider alternative methods to provide the services or treatments, and address the effects of these alternatives on beneficiaries. Additionally, we are interested in projects that investigate the complex issues surrounding the development, adoption, and diffusion of new medical technologies and their relationship to programmatic issues involved in making eligibility, reimbursement, and coverage decisions. Concerns range from identifying emerging technologies to analyzing the costs and benefits of specific procedures, technologies, and treatment protocols. Specific areas of interest are as follows:

• Projects concerning the impact of the prospective payment system on the introduction of new technologies and approaches to the integration of these technologies into DRGs or the addition of new DRGs when necessary.

• Projects which compare the costs and effectiveness of diagnostic imaging modalities such as conventional X-ray, CT scanners, nuclear magnetic resonance imaging, etc. In addition, projects which examine the implications and impact of the placement and utilization of these devices on a regionalized basis or in tertiary medical centers.

• Projects concerning the long-term costs, and effectiveness of kidney, bone marrow, and other organ transplantation.

• Projects to determine the desirability, feasibility, and cost of the re-use of so-called disposable medical devices; as well as projects which would give us a better understanding of what items are currently being re-used, the methods of preparation for re-use, and the extent of the practice. Such projects would include issues of safety, cost-effectiveness of sterilizing medical devices.

• Projects concerning the impact of new technologies of intermittent and continuous monitoring devices in the ambulatory center and home settings, including the use of home blood pressure devices, EKGs, EEGs, parenteral nutrition, and blood-sugar monitoring devices.

• Projects concerning other coverage issues including: hip replacement, pacemakers, intraocular lens replacement, alcoholism and mental illness treatment services, palliative and supportive therapy for catastrophic illness patients, and provision of low cost therapies.

Beneficiary Awareness and Prevention ($1.0 million)

As part of our long-range efforts to study and move toward some form of voucher system for payment of health care services, we are interested in projects on the extent of understanding beneficiaries have with respect to the program, and the impact beneficiary awareness/education efforts have on

program understanding, selection of health care alternatives, and selection of treatment modalities. We are also interested in projects on the extent to which preventive services and patient education or behavior modification efforts prevent, control, delay or reduce morbidity from chronic diseases, and reduce the overall cost of health care in the Medicare and Medicaid programs. Specifically, we are interested in projects in the following areas:

- Projects which address the effectiveness of self-care training for patients and their partners.
- Projects which develop, demonstrate, and evaluate systems which promote cost effectiveness through health education and behavior modification.
- Projects concerning the financial incentives, cost effectiveness, and other economic aspects of various preventive services, including Medicaid coverage of prenatal care and preventive services for children, and either Medicare or Medicaid coverage or both of preventive services for adults.

III. Selection Criteria

A. General Criteria for Funding New Projects

HCFA determines which projects will be funded based on the recommendations of technical review panels and the comments of other Departmental components. More specifially, the criteria employed in arriving at the award decision include—

1. The availabilty of appropriate HCFA monitoring staff and fiscal resources along with the relative importance of the proposed project;
2. Whether the project addresses an area of declared interest;
3. The adequacy and creativity of the research or demonstration design and hypotheses, the validity and appropriateness of the methods and data base(s) proposed, and the experience and competence of the proposed staff;
4. Whether there is a realistic expectation that the project can be carried out within the times specified;
5. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the state of the art in parject design and analytical methods;
6. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project (projects with waiver requests must include budget estimates for both the adiministrative and service costs prepared in accordance with the methodology specified in II.C.3.);
7. The documentation of a commitment of the parties other than the awardee's staff that is necessary to carry out the project; and
8. Whether anticipatied results are of general applicability and would be of value in other settings, or are of national importance.

B. Specific Project Requirements

In addition to meeting the general criteria described above, we require applicants for cooperative agreeements and grants to include the following spicific information about the proposed project in the application:

1. A clear, quantifiable statement of the project goals and objectives.
2. An explicit description of the research design, including the questions to be addressed and the methods and data to be used. The methodology must be well defined and scientifically valid.
3. Classification of the demonstration into one of three categories. Each category is best suited to certain types of demonstrations and consequently has different evaluation requirements and different emphases for review purposes. The applicant must select the category most appropriate for the particular demonstration and within the category strive to ensure the greatest rigor in both the research design and evaluation component.

a. *Category I.* These are experiments similar to clinical trials, characterized by a strict experimental design usually employing randomization. For these experiments, the reasarch design and the evaluation design are the same and should no longer be addressed together in the application. The desin is of paramount importance and will receive more emphasis in review than for other demonstrations.

Project evaluation may be conducted by the awardee. If not, the awardee must have designated the evaluator in the application. HCFA would still reserve the right to do an independent evaluation.

b. *Category II.* These are demonstrations with quasi-experimental designs where randomization is not feasible. These usually are multiple site projects on a less than statewide basis. Also, these projects usually identify a comparison group, and employ a site selection technique that recognizes national differences. For Category II demonstrations, the research design and evaluation design are separate and distinct parts of the application. The applicant is responsible for including an evaluation component in the application. HCFA would still reserve the right to do an independent evaluation.

c. *Category III.* These demonstrations are similar to feasibility studies where programmatic questions are paramount and experimental design is of less importance. The research design section should include a detailed description of the reimbursement methodology and other programmatic changes. The evaluation section will provide an indication of the applicant's understanding of the evaluation issues and the various approaches to them. Should an award be made, the applicant may be required to collect data in a standardized manner to facilitate evaluation efforts. HCFA will have the option of determining whether the applicant or HCFA will be responsible for the evaluation.

4. Demonstrations must contain a phase down/phase-out plan that—

a. Ensures that Medicare and Medicaid beneficiaries, as well as any other project participants, are phased out of any special programs which were initiated and exist as reimbursable or covered health services only under the auspices of the project, or ensures that plans are in effect to provide other care for the project participants by the date the project is scheduled to end.

b. Ensures that any new payment methods initiated by the project will cease to apply at the scheduled end of the project, i.e., the project in and of itself cannot commit the Medicare or Medicaid programs to an indefinite use of the payment methodology beyond the scheduled end of the project.

5. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA. (Progress and Financial Reports as required by 45 CFR Part 74)

6. The application must contain information specifying the availability of the data to be used, if data are to be collected. The discussion must describe the nature of the data sought, the sample design and size, controls and comparisons (if any), and the problems that might be encountered in collection. Data that are collected under a HCFA cooperative agreement or grant must be available to HCFA or its agents. However, the applicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA cooperative agreement or grant. (See item 12 below for more information about confidentiality.)

7. The application must include a description of the qualifications and experience of the personnel and

demonstrate that the personnel are capable of performing the tasks in the project. Specific information must also be provided concerning how the personnel are to be organized in the project, to whom they will report, and how they will be used to accomplish specific objectives or portions of the project.

8. The application must include information specifying the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

9. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results. Applicants must directly share in the costs of the projects (see section IV.C., below). The budget may not include costs for construction or remodeling, or for project activities that take place before the applicant has received official notification of HCFA approval of the project.

10. Projects that require waivers (for example, those under section 1115(a) of the Act, section 222(a) of the Social Security Amendments of 1972, as amended, and section 402(a) of the Social Security Amendments of 1967, as amended), must define the services, list the waivers, discuss the implications if such waivers are granted, and state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project. Budget estimates for the administrative and service costs must be prepared in accordance with the methodology specified in II.C.3.

Waiver-only applications must also contain estimates prepared in accordance with the methodology specified in section II.C.3. of this notice, of the amount of program and administrative expenditures that will occur under the waivers and a comparison of these expenditures to those that currently occur in the programs.

If an application is approved, the awardee must ensure that expenditures are reported to ORD as specified in the special terms and conditions to the award document.

If the project involves both Medicare and Medicaid waivers, a request for Medicaid waivers from the State agency administering the Medicaid program must be included with the application. Applicants should contact HCFA for further information if questions arise in these cases.

11. Plans for utilization of the project's results must be discussed.

12. The application must contain detailed plans to protect the confidentiality of all information that identifies individuals under the project. The plan must specify that such information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that in all cases where disclosure takes place the informed written consent of the individual must be obtained.

13. Each application must include a statement that if the project is awarded, the awardee will furnish on a quarterly basis quarterly expenditures for administrative and program costs for the project within the approved budget, in the format to be specified under special terms and conditions in the cooperative agreement or grant.

14. While HCFA does not require review under Executive Order 12372, Intergovernmental Review of Federal Programs (47 FR 30959), all applicants must, nevertheless, determine whether review by the appropriate State and area-wide clearinghouse is required.

15. Additional specific project requirements may be included in special cooperative agreement or grant solicitations.

C. Other Requirements

1. When a project is completed, the grantee must submit a final report. As a minimum, the report must contain the following:

a. Indentification of the project director, principal investigator, cooperative agreement or grant number, grantee, and title of the project.

b. Acknowledgment of the support received from HCFA, and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA.

c. An executive summary (one or two pages) that provides an overview of the project and highlights significant findings.

d. A description of the initial hypotheses, objectives, and scope of the project.

e. An explanation of the study methodology.

f. A discussion of significant findings and demonstrations or research results (and the implications of these results, if any).

2. On a semi-annual basis during the course of the project, the grantee must provide a list and copies of all papers presented, and of all articles, reports, and other types of publications that result from the project, for inclusion in a subject bibliography system maintained by the Office of Research and Demonstrations, HCFA. It is further requested that the grantee continue to provide the updated information for 2 years after the project's completion.

3. The ORD Author's Guidelines for Cooperative Agreements, Grants, and Contracts should be used in preparing the final report. This document is available on request from the ORD Publications Coordinator, Room 2-E-6 Oak Meadows 6325 Security Boulevard, Baltimore, Md. 21207, (301) 594-8771.

IV. Application Procedures

A. A standard application form is available for the HCFA research and demonstration cooperative agreement and grants program. The application form has been approved under OMB #0938-0078 for use through September 1985. Application kits and guidance for the completion of the forms are available from:

Health Care Financing Administration, Office of Management and Budget, Projects Grants Branch, Room 389 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207-5187, (301) 594-3333.

Priority grant applications must be limited to one priority area. The application must include, in the project title block, the priority area title and number to which the applicant is responding. The priority area designation must also be clearly marked on the outside of the package or envelope.

B. Multiple Applications

The applicant must indicate when the same or a similar application is submitted to another HHS agency; for example, the Social Security Administration, the Office of Human Development Services, or to one of the Public Health Service programs.

C. Cooperative Agreement and Grant Policies

Projects are funded through a competitive process and chosen from among the applications submitted in response to this notice. All awardees are expected to share directly in the costs of the projects. This sharing must be at least five percent of the total project cost or must be institutional cost sharing when the applicant has such cost sharing established with HHS.

For section 1115(a) projects, the amount the single State agency will be expected to provide generally must be at least five percent of special Federal project funds. This amount may not be met by in-kind contributions.

If, following review of a proposed research activity, HCFA determines, that a research or demonstration project presents a danger to the physical,

mental or emotional well-being of a participant of the project, then Federal funds will not be made available for that project without the written, informed consent of each participant.

Other policies including responsibilities, awarding and payment procedures, special provisions, and assurances may be found in 45 CFR Part 74, Administration of Grants that is included in the application kit.

It is a national policy to place a fair share of purchases with small, minority-owned, and woman- owned business firms (45 CFR Part 74, appendices G and H). The Department of Health and Human Services is strongly committed to the objectives of this policy and encourages all recipients of its cooperative agreements and grants to take affirmative steps to ensure such fairness. In particular, recipients should—

1. Place small, minority-owned, and woman-owned business firms on bidders' mailing lists;

2. Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services;

3. Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms; and

4. Use the assistance of the Minority Business Development Agency of the Department of Commerce, the Office of Small and Disadvantaged Business Utilization, DHHS, and similar available State and local governmental agencies.

V. Review of Applications

An independent review will be conducted by a panel of not less than three experts (who are not staff members of ORD). The panel will include experts from both DHHS and the private sector.

In most cases, there will be at least one independent review panel for each priority area, including, if necessary, one designated to review applications that do not fit in a priority area. An ORD chairperson will coordinate the panel's review but will not vote. The chairperson will also prepare the panel's recommendation (summary statement) to the Director, ORD. The panel's recommendation will contain numerical ratings, ranking of all applications, and a written assessment of each application. These will be summarized in a ranking and approval list and a matrix will be prepared for each application.

Applicants may request in writing a copy of the summary statement on the review of their application after they have received from HCFA the letter announcing approval or disapproval. Summary statements will be made available subject to the applicable limitations of the Freedom of Information Act (5 U.S.C. 552), the Federal Advisory Committee Act (5 U.S.C. App. I.), the Privacy Act (5 U.S.C. 552a), and 45 CFR Parts 5, 5b, and 11.

VI. Closing Date and Times

We will process cooperative agreement and grant applications once a year and make award announcements approximately five to six months after the closing date. The following closing dates apply for cooperative agreement and grant applications with or without requests for waivers:

FY 1985

Monday, April 15, 1985
(Waiver-only and discretionary funds awards)

FY 1986

Monday, November 4, 1985
(Waiver-only and discretionary funds awards)
Monday, May 5, 1986
(Waiver only)

FY 1987

Monday, November 3, 1986
(Waiver-only and discretionary funds awards)
Monday, May 4, 1987
(Waiver only)

Any applications received for previous closing dates (as announced in 49 FR 31157, August 3, 1984) will be held for the new April 15, 1985 closing date and will be considered with all other timely applications.

Applications mailed through the U.S. Postal Service or a commercial delivery service will be "on time" if they are received on or before the closing date, or sent on or before the closing date and received in time for submission to the independent review group (see section V., Review of Applications). Applicants are cautioned to request a legible U.S. Postal Service postmark or to obtain a legibly dated receipt from the commercial carrier or the U.S. Postal Service. Privately metered postmarks will not be acceptable as proof of timely mailing.

Applications that do not meet the above criteria will be considered late applications. Those submitting late applications will be notified that the applications were not considered in the current competition.

(Sec. 1110, 1115(a), 1875, and 1881(f) of the Social Security Act (42 U.S.C. 1310, 1315(a), 1395ll, 1395rr(f); section 222(a) of the Social Security Amendments of 1972, as amended (42 U.S.C. 1395b–1 (note)); section 402 of the Social Security Amendments of 1967, as amended (42 U.S.C. 1395b–1); section 603 of the Social Security Amendments of 1983 (Pub. L. 98–21); section 605(b) of the Social Security Amendments of 1983 (42 U.S.C. 1395x(v)(1)(E)(Note))

(Catalog of Federal Domestic Assistance Progam No. 13.766 Health Financing Research, Demonstrations and Experiments)

Dated: November 16, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85–2480 Filed 1–29–85; 8:45 am]

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