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Monday
July 22, 1985

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Presidential Documents

Title 3—

The President

Presidential Determination No. 85–16 of July 12, 1985

Determination Pursuant to Sections 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

In order to meet unexpected urgent refugee and migration needs in the Near East and Southeast Asia, I hereby determine, pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended (the Act), that it is important to the national interest that there shall be made available from the United States Emergency Refugee and Migration Assistance Fund up to $8 million for assistance to Palestinian refugees in the Near East and up to $2 million for assistance to Khmer in Thailand, including, as appropriate, contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the International Committee of the Red Cross, and the United Nations Border Relief Operation.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination.

This Determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 12, 1985.

[FR Doc. 85–17409
Filed 7–18–85; 12:46 pm]
Billing code 3195–01–M

Presidential Documents

Memorandum of July 17, 1985

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)), I have determined that the practices of the Member States of the European Space Agency (ESA) and their instrumentalities with respect to the commercial satellite launching services of Arianespace, S.A. are not unreasonable and a burden or restriction on U.S. commerce. While Arianespace does not operate under purely commercial conditions, this is in large measure a result of the history of the launch services industry, which is marked by almost exclusive government involvement. I have determined that these conditions do not require affirmative U.S. action at this time. But because of my decision to commercialize expendable launch services in the United States, and our policies with respect to manned launch services such as the Shuttle (STS), it may become appropriate for the United States to approach other interested nations to reach an international understanding on guidelines for commercial satellite launch services at some point in the future.

Reasons for Determination

Based on a petition filed by Transpace Carriers, Inc., (TCI) the United States Trade Representative (USTR) initiated an investigation on July 9, 1984, of the European Space Agency's policies with respect to Arianespace S.A. Arianespace is a privately owned company, incorporated under the laws of France for the purpose of launching satellites. Arianespace's shareholders include the French national space agency, and aerospace companies and banks incorporated in the ESA Member States.

The Petitioner alleged that 1) Arianespace uses a two tier pricing policy whereby Arianespace charges a higher price to ESA Member States than to foreign customers; 2) the French national space agency (CNES) subsidizes launch and range facilities, and services and personnel provided to Arianespace; 3) the French national space agency subsidizes the administrative and technical personnel it provides to Arianespace; and 4) Arianespace's mission insurance rates are subsidized. In addition to these allegations, the U.S. also investigated three other areas: government inducements to purchasers of Arianespace's services; direct and indirect government assistance to Arianespace; and, Arianespace's costs and pricing policies.

Our findings with respect to these allegations are set forth below. Many of the factual allegations were not supported by evidence on the record. While other allegations were substantiated, the practices were not sufficiently different from U.S. practice in this field to be considered unreasonable under Section 301.

Government Inducements:

The investigation uncovered no evidence of offsets or insurance being provided by ESA or its Member States. Member States of ESA do provide export financing for Arianespace's customers. However, the terms of the financing are consistent with international agreements to which the United States is a party.

Direct Government Assistance:

Administrative Personnel: Arianespace and CNES entered into a Head Office Services Agreement pursuant to which CNES personnel perform certain administrative functions for Arianespace. CNES charges Arianespace a flat percentage of annual turnover for its services. While the fee is arbitrary, we have no reason to question CNES's assertion that the fee, in fact, covers actual wage costs plus fringe benefits. The amounts paid to date seem reasonable.

Range Services: The range facilities at Kourou are operated by CNES. Arianespace pays CNES a fee for the use of the range facilities including personnel services. The fee is arbitrary and it does not cover the full range costs incurred by Arianespace. ESA claims that when the fee is raised Arianespace will pay the full cost of range services attributable to Arianespace's activities. Current U.S. policy offers use of the national ranges and launch support services to commercial ELV's on a direct cost, rather than full cost, reimbursement basis.

Loans and Capital Grants: There is no evidence of direct capital grants or soft loans being given to Arianespace by ESA or the Member States other than CNES, which as a stockholder put up equity capital in Arianespace. Of course, Arianespace stockholders, some of whom, e.g. Aerospatiale, are government-owned, have contributed equity capital to the firm. However, we have no evidence to suggest that such transactions are inconsistent with normal commercial practice.

Hardware: ESA provided a certain amount of hardware to Arianespace at less than its cost of acquisition. ESA claims that the cost was reduced because some of the hardware had been used. ESA estimated the value of this hardware to be $50,000. NASA's agreement with TCI for the transfer of the Delta program also provided for transfer of certain flight hardware at less than the government's cost of acquisition.

Protected Home Market: ESA and its Member States have agreed to give Arianespace a preference over other launch service providers with respect to payloads owned and operated by these government entities. Because of this preference and because almost all European communication satellites are operated by governments, rather than private firms, U.S. ELV's and the Shuttle (STS) have limited opportunities to penetrate the European market. In contrast, much of the U.S. market, which is the major market in the world, is open because communication satellites are owned and operated by private sector firms. However, U.S.G. payloads also are carried almost exclusively by U.S. launch service providers. Thus, there is little difference in the respective treatment by ESA and the United States of government payloads. The major difference is in the structure of the market with European communication satellites being operated primarily by government entities.

Indirect Government Assistance: Because Arianespace's major suppliers are also major stockholders and because some of these suppliers are, in turn, owned in whole or part by Member State governments of ESA there is concern that the governments, through their ownership of these supplier companies, can artificially reduce Arianespace's operating costs. However, the investigation uncovered no evidence to suggest that Arianespace is obtaining significant assistance by reason of low-cost inputs from its suppliers.

Costs and Pricing: Under current pricing policies, Arianespace is not recovering its full costs, nor is it likely to do so in the near future. ESA has agreed to long-term, fixed-price contracts for launch services with Arianespace. On the other hand, Arianespace has been quite flexible in its price bids to non-ESA customers, and consistently charges less than the price charged to ESA. But it is not uncommon for firms to discount heavily in order to establish themselves in the market, especially when demand is low. Therefore, it appears that market forces, especially the current excess supply of launch capacity, are primarily responsible for current low launch prices.

Since there are no international standards of reasonableness for launch services, we have compared ESA practices to United States practice, and to reasonable commercial practices. The ESA practices are not sufficiently different from those of the U.S. to be actionable under Section 301. This determination is not an endorsement of ESA practices. Our policies in this area are now undergoing revision, and in the future we may wish to reexamine ESA's practices and their effect on U.S.G. launch services. At that time it may be in our mutual interest to engage in international discussions aimed at establishing appropriate guidelines for the commercial launch industry.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 17, 1985.

[FR Doc. 85-17441
Filed 7-18-85; 2:47 pm]
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Tomato Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Tomato Juice and establish U.S. Standards for Grades of Tomato Juice from Concentrate. This rule was developed by the U.S. Department of Agriculture (USDA) at the request of major segments of the tomato juice industry. It will improve the standards by: (1) Establishing standards for tomato juice from concentrate; (2) modernizing the format of the standards to include definitions of terms and easy to read tables; (3) removing the word "canned" from the canned tomato juice grade standards; and (4) redesignating the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation. Its effect will be to improve the standards and promote orderly and efficient marketing of tomato juice and tomato juice from concentrate.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more; There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 533) because: (1) The 1985-86 crop year begins in late June or early July 1985, and this final rule should be effective by the time new crop deliveries from growers to processors begin; (2) postponing the effective date of this final rule would serve no useful purpose and could cause administrative problems in the application of the U.S. Standards for Grades of Tomato Juice; (3) the effective date for compliance to the amended FDA Standards of Identity and Standards of Quality for Tomato Juice was July 1, 1985.

The Food and Drug Administration (FDA) on January 28, 1983 (48 FR 3946) amended 21 CFR 156.145 to provide for the use of tomato concentrates (tomato puree, tomato paste and concentrated tomato juice) to prepare tomato juice from concentrate and to establish a minimum tomato soluble solids requirement of 5.0 percent, by weight, for tomato juice from concentrate. The effective date for compliance to this amendment was July 1, 1985.

Because of its relationship to the FDA standards, the product description in the current U.S. grade standards for "canned tomato juice" includes "canned tomato juice from concentrate." The final rule will provide separate requirements for "tomato juice from concentrate." Two tables—one for "tomato juice" and another for "tomato juice from concentrate" showing score point ranges for the various quality factors in tabular rather than narrative form—are included in the final rule.

Innovations in processing practices for tomato juice have brought about methods of marketing tomato juice in containers other than hermetically sealed cans. So that the standards can be used for these other types of processing and packaging, the word "canned" will be eliminated from the canned tomato juice grade standards.

The canned tomato juice grade standards have the two quality levels designated as "U.S. Grade A" and "U.S. Grade C." Most other U.S. grade standards for juices have quality levels designated as "U.S. Grade A" and "U.S. Grade B." This action will change the grade designation of "U.S. Grade C" to "U.S. Grade B."

The final rule will also provide a uniform format consistent with recent revisions of other U.S. grade standards. The format has been designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy to read tables have been incorporated to assure a better understanding and a uniform application of the standards.

On March 19, 1985, a proposed rule was published in the **Federal Register** (50 FR 10970) to provide for the establishment of grade standards for tomato juice from concentrate with easy to read tables, remove the word "canned" from the canned tomato juice grade standards, and redesignate the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation.

One comment was received in response to the proposed rule. The National Food Processors Association (NFPA), which is a trade association representing about 600 member companies, fully supports the proposal.

After review of the NFPA comment and in order to promote the orderly marketing of tomato juice, the USDA hereby revises the voluntary grade standards for canned tomato juice to: (1) Include tomato juice from concentrate; (2) modernize the format of the standards to include definitions of terms and easy to read tables; (3) remove the word "canned" from the canned tomato juice grade standards; and (4) redesignate the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, 7 CFR Part 52 is amended as follows:

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

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205; 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624.

2. Subpart—United States Standards for Grades of Canned Tomato Juice (7 CFR 52.3621–52.3630) is revised to read as follows:

Subpart—United States Standards for Grades of Tomato Juice

Sec.

52.3621 Product description.
52.3622 Definitions of terms.
52.3623 Recommended sample unit sizes.
52.3624 Grades.
52.3625 Recommended fill of container.
52.3626 Factors of quality and analysis.
52.3627 Requirements for grades.
52.3628 Sample size.
52.3629 Lot quality requirements.

§ 52.3621 Product description.

(a) *"Tomato juice"* is the product as defined in the Standards of Identity for Tomato Juice (21 CFR 156.145), issued under the Federal Food, Drug, and Cosmetic Act.

(b) *"Tomato juice from concentrate"* is the product as defined in the Standards of Identity for Tomato Juice (21 CFR 156.145), issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.3622 Definitions of terms.

In these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Color.*—(1) *General.* The amount of red in tomato juice and tomato juice from concentrate is determined by comparing the color of the product with the Munsell color discs with specified percentages. The availability and procedure for using the Munsell color discs may be obtained from the supplier licensed by the U.S. Department of Agriculture:

Munsell Color Company, 2441 North Calvert Street, Baltimore, Maryland 21218

Any method or device approved by the USDA (including electronic color meters) which gives equivalent results may be used.

(2) *"Good color"* means a color that is bright and characteristic of tomato juice, made from mature red tomatoes, which is not affected by caramelization, oxidation or other similar causes. Such color contains as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Red (5R 2.6/13) (glossy finish);
21 percent of the area of Yellow (2.5 YR 5/12) (glossy finish); and
14 percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
7 percent of the area of Black (N1) (glossy finish) and
7 percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(3) *"Reasonably good color"* means a color that is typical of red tomato juice which may be slightly affected by caramelization, oxidation or other similar causes.

(i) To score 25 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

59 percent of the area of Red (5R 2.6/13) (glossy finish);
24½ percent of the area of Yellow (2.5 YR 5/12) (glossy finish); and
16½ percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
8¼ percent of the area of Black (N1) (glossy finish) and
8¼ percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(ii) To score 23 or 24 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Red (5R 2.6/13) (glossy finish);
28 percent of the area of Yellow (2.5 YR 5/12) (glossy finish); and
19 percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
9½ percent of the area of Black (N1) (glossy finish) and
9½ percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(b) *Consistency* means the viscosity of tomato juice or tomato juice from concentrate including the degree of separation of the insoluble solids.

(1) *Good Consistency* means that the juice flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is little solids separation.

(2) *Reasonably good consistency* means that the juice flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is not a marked degree of solids separation.

(c) *Defects* means dark specks or scale-like particles, seeds, particles of seed, tomato peel, core material, or other similar substances.

(1) *Practically free from defects* means that any defects present do not more than slightly affect the appearance or drinking quality of the product.

(2) *Reasonably free from defects* means that any defects present may be noticeable, but are not so large, so numerous, or of such contrasting color as to seriously affect the appearance or drinking quality of the product.

(d) *Flavor.* Flavor is evaluated based upon characteristics normal to tomato juice or tomato juice from concentrate.

(1) *Good flavor* means a distinct tomato juice flavor and odor characteristic of good quality tomatoes which is not materially affected by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(2) *Reasonably good flavor* means a characteristic tomato juice flavor which may be materially, but not seriously, affected by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(e) *Tomato soluble solids* (TSS) means the sucrose value as determined by the method prescribed in 21 CFR 156.3.

§ 52.3623 Recommended sample unit sizes.

The requirements for all factors of quality are based on the following:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more containers; or

(d) A representative portion of processed product stored or held in bulk containers.

§ 52.3624 Grades.

(a) *U.S. Grade A* is the quality of tomato juice or tomato juice from concentrate that meets the applicable requirements of Tables I or II.

(b) *U.S. Grade B* is the quality of tomato juice or tomato juice from concentrate that meets the applicable requirements of Tables I or II.

(c) *Substandard* is the quality of tomato juice or tomato juice from concentrate that fails to meet the requirements for "U.S. Grade B."

§ 52.3625 Recommended fill of container.

Fill of container is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor

of quality for the purposes of these grades. It is recommended that each container of tomato juice be filled as full as practicable without impairment of quality, and that the product occupies not less than 90 percent of the capacity of the container.

§ 52.3626 Factors of quality and analysis.

(a) The grade of a lot of tomato juice or tomato juice from concentrate is based on evaluation and analysis of the juice for the following quality and analytical factors:

(1) Color;

(2) Consistency;

(3) Defects;

(4) Flavor; and

(5) Tomato soluble solids (tomato juice from concentrate).

(b) The relative importance of each quality factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	Points
Color	30
Consistency	15
Defects	15
Flavor	40
Total Score	100

(c) The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, 13 to 15 points means 13, 14, or 15 points) and the score points shall be prorated relative to the degree of excellence for each factor.

§ 52.3627 Requirements for grades.

TABLE I.—TOMATO JUICE

Quality factors	Factor description	Grade	Score point range
Color	Good	(A)	26-30
	Reasonably good	(B)	[1] 25
			[2] 23-24
Consistency	Good	(A)	13-15
	Reasonably good	(B)	[3] 10-12
Defects	Practically free	(A)	13-15
	Reasonably free	(B)	[4] 10-12
Flavor	Good	(A)	33-40
	Reasonably good	(B)	[4] 27-32
Minimum total score.		(A)	85 points
		(B)	70 points

[1] Tomato juice assigned 25 points for the factor of color can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.

[2] Tomato juice assigned 23 or 24 points for the factor of color cannot be graded above U.S. Grade B regardless of the total score for the product.

[3] Tomato juice possessing only "reasonably good consistency" (10-12 points) can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.

[4] Cannot be graded above U.S. Grade B regardless of the total score for the product.

TABLE II.—TOMATO JUICE FROM CONCENTRATE

Quality factors	Factor description	Grade	Score point range
Color	Good	(A)	26-30
	Reasonably good	(B)	[1] 25
			[2] 23-24
Consistency	Good	(A)	13-15
	Reasonably good	(B)	[3] 10-12
Defects	Practically free	(A)	13-15
	Reasonably free	(B)	[4] 10-12
Flavor	Good	(A)	33-40
	Reasonably good	(B)	[4] 27-32
Minimum total score.		(A)	85 points
		(B)	70 points

[1] Tomato juice from concentrate assigned 25 points for the factor of color can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.

[2] Tomato juice from concentrate assigned 23 or 24 points for the factor of color cannot be graded above U.S. Grade B regardless of the total score for the product.

[3] Tomato juice from concentrate possessing only "reasonably good consistency" (10-12 points) can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.

[4] Cannot be graded above U.S. Grade B regardless of the total score for the product.

Note: Tomato soluble solids (minimum)—5.0 percent by weight.

§ 52.3628 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83) for lot grading and on-line grading, as applicable.

§ 52.3629 Lot quality requirements.

A lot of tomato juice or tomato juice from concentrate is considered as meeting the requirements for quality if:

(a) The requirements specified in Tables I or II, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1–52.83 are met.

Done at Washington, D.C., on: July 16, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-17302 Filed 7-19-85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1136

Milk in the Great Basin Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of July through December 1985 a suspension of the provisions of the Great Basin milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also suspended for the same period is the requirement that 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. The suspension was requested by Western General Dairies, Inc., a cooperative association representing most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued June 12, 1985; published June 18, 1985 (50 FR 25249).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Great Basin marketing area.

Notice of proposed rulemaking was published in the Federal Register on June 18, 1985 (50 FR 25249) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon.

Views in opposition to the proposed suspension were received from twenty-four producers and the operator of the pool plant to which their milk is delivered.

The opponents view the suspension request as a means by which cooperatives could associate additional milk supplies with the Great Basin market, thereby lowering the blend price to producers in the Great Basin market. They also expressed the view that the suspension of the diversion percentages

would result in shifting costs that should be borne by the cooperative that is diverting its producers' milk to other producers who are not members of the cooperative.

Western General submitted data showing that Grade A milk marketed jointly by Western General and Lake Mead Cooperative Association in the Great Basin marketing area increased 49.9 percent between August 1984 and May 1985 while dispositions by the two cooperatives to fluid milk plants have increased only 14.9 percent. Proponent states that the movement of producer milk solely for the purpose of qualifying those producers for pooling on the Great Basin market has caused additional expense to the cooperative for handling the reserve supply of milk.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of July through December 1985 the following provisions do not tend to effectuate the declared policy of the Act:

(1) Section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk:".

Statement of Consideration

This action makes inoperative for July through December 1985 the requirement that at least 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. In addition, this action continues a suspension that has been in effect since January 1985 of the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 25 percent of its member milk physically received at pool plants in any month of March through August, and up to 20 percent of its member milk physically received at pool plants in any month of September through February. Similarly, the operator of a pool plant may divert up to 25 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of March through August, and 20 percent during the months of September through February.

The suspension was requested by Western General Dairies, Inc., a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies.

The suspension is necessary because the volume of producer milk marketed jointly by Western General and Lake Mead Cooperative Association in the Great Basin marketing area increased 49.90 percent over the period from August 1984 to May 1985. During the same period, combined dispositions of the two cooperative associations to fluid plants increased only 14.94 percent. Consequently, the cooperative's reserve milk supplies through December 1985 are expected to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, some of the milk of the cooperative's member producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during July through December 1985.

In addition, milk has had to be moved uneconomically from distant production areas in order to meet the 6-day delivery requirement, only to displace milk produced at locations nearer the pool plants. The close-in milk must then be moved, uneconomically, to distant nonpool plants for manufacturing use.

It is obvious from the comments received that misunderstanding exists regarding the role of diversion provisions under an order. Diversion of milk from a pool plant to a nonpool plant is simply a way for milk that is surplus to the fluid needs of a market to be delivered directly from the farm to a nonpool plant for use in manufactured products. The alternative to such practice is to receive the milk at a pool plant and then transfer the milk to a nonpool plant. Such alternative is more costly than moving the milk directly from the farm to the nonpool plant. Under the alternative method, the milk must first be moved to the pool plant, physically unloaded, then reloaded and moved to a nonpool plant.

With regard to the percentage limitations on the amount of milk that may be diverted to nonpool plants under the Great Basin order, such limitations are quite restrictive in comparison to most other Federal orders. Under the Great Basin order during months when the 20-percent limitation on diversions to nonpool plants is in effect, not more than 17 percent of the producer milk can be diverted to nonpool plants while in excess of 83 percent of the producer milk supply must be received at pool plants.

Proponent cooperative requested that the suspension be effective for an additional six-month period to allow time for a hearing to be held to review whether changes should be made in the order provisions to accommodate future needs of the market. In view of the increased production on the market and the cooperative's request for time to assess how the order might best accommodate the production increases in an orderly manner, a continued suspension appears to be appropriate. Accordingly, the suspension should be effective for the months of July through December 1985.

While the suspension of the diversion percentages will allow the movement of additional milk supplies directly from the farms of producers to nonpool plants, other provisions of the order will assure that producers have a continuing association with this market. The pooling requirements for pool plants under the Great Basin order specify that diversions are to be included as receipts of the pool plant in determining the pool status of plants. Consequently, the volume of milk that cooperative associations and pool plant operators may associate with the Great Basin market as producer milk is limited by the pooling provisions of the order. Thus, the suspension of the diversion percentages will not permit the association of unlimited milk supplies with the Great Basin market, which appeared to be one of the primary concerns of opponents of the proposed suspension.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date

hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. Views in opposition to the proposed suspension and in favor of the proposed action were received from interested parties and considered in determining whether the proposed suspension should be adopted.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

PART 1136—[AMENDED]

§ 1136.13 [Amended]

It is therefore ordered, that the following language in § 1136.13(c) is suspended for the months of July through December 1985:

(1) Section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Effective Date: July 22, 1985.

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

Signed at Washington, D.C., on July 17, 1985.

Karen K. Darling,

Acting Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 85–17382 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

[Amdt. 4]

Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations found at 7 CFR 1421.5551 *et seq.* relating to the Commodity Credit Corporation (CCC) Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed. The final rule will: (1) Permit a parent company to submit a financial statement for a wholly-owned subsidiary; (2) permit warehousemen to submit financial statements on forms other than on Form WA–51–2; (3) revise the references to CCC regulations governing suspension and debarment; (4) permit CCC to accept an irrevocable letter of credit on forms other than Form CCC–33A; (5) delete the use of a Certificate of Competency issued by the Small Business Administration for a warehouseman who is deficient in net worth; (6) delete certain references to the withdrawal of approval of warehouses by CCC; and (7) make certain other miscellaneous changes.

EFFECTIVE DATE: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Lynda Flament, 202–447–7912, Warehouse Division, U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major" since it does 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, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 28115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Commodity Credit Corporation Charter Act (15 U.S.C. 714) authorizes CCC to conduct various activities to stabilize, support, and protect farm income and prices. CCC is authorized to carry out such activities as making price support available with respect to various agricultural commodities, removing and disposing of surplus agricultural commodities, exporting or aiding in the exportation of agricultural commodities, and procuring agricultural commodities for sale both in the domestic market and abroad.

Section 4(h) of the CCC Charter Act provides that CCC shall not acquire real property in order to provide storage facilities for agricultural commodities, unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, Section 5 of the CCC Charter Act provides that, in carrying out the Corporation's purchasing and selling operations, and in the warehousing, transporting, processing, or handling of agricultural commodities, CCC is directed to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce.

Accordingly, CCC has set forth Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed which must be met by warehousemen before CCC will enter into storage agreements with such warehousemen for the storage of grain and other commodities which are owned by CCC or which are serving as collateral for CCC price support loans.

Changes in the grain warehousing industry, financial institution requirements, and Federal contracting requirements during the past few years necessitate updating the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed.

Accordingly, a notice of proposed rulemaking was published by the Department in the **Federal Register** on

April 26, 1985, 50 FR 16504, requesting comments with respect to a number of proposals regarding changes in the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed. The comment period was for thirty days and ended on May 28, 1985.

Amendments to the regulations were proposed which would: (1) Permit a parent company to submit a financial statement for a wholly-owned subsidiary; (2) permit warehouses to submit financial statements on forms other than on Form WA–51–2; (3) revise the references to CCC regulations governing suspension and debarment; (4) permit CCC to accept an irrevocable letter of credit on forms other than Form CCC–33A; (5) delete the use of a Certificate of Competency issued by the Small Business Administration for a warehouseman who is deficient in net worth; (6) delete certain references to the withdrawal of approval of warehouses by CCC; and (7) make certain other miscellaneous changes, such as correcting the mailing address for the Kansas City Commodity Office, changing old Form TW–51 to Form WA–51–2, deleting the contract fee schedule since the schedule is subject to change, and adding a new § 1421.5559 to include control numbers assigned by the Office of Management and Budget (OBM) under the provisions of 44 U.S.C. Chapter 35 for information collection requirements.

Two comments were received, one from a State Agency and one from a National Association. The State Agency supports the proposed changes. The Agency approves of the practice of accepting financial statements submitted by a parent company for a wholly-owned subsidiary. However, they recommend that a letter of guarantee be submitted by the parent company to assure the integrity of the contract. In the past when financial statements from parent companies have been accepted by CCC for a wholly-owned subsidiary under limited circumstances, a Letter of Guarantee has been required. We intend to continue this practice. The National Association submitted the results of a pool of its membership. The results showed that the majority of those polled support the proposed changes.

Accordingly, it has been determined that the provisions of the proposed rule should be adopted as a final rule.

List of Subjects in 7 CFR Part 1421

Grains, Loans programs, Agriculture, Oilseeds, Peanuts, Price support programs, Soybeans, Surety bonds, Tobacco, and Warehouses.

Final Rule

PART 1421—[AMENDED]

Accordingly, the regulations at 7 CFR Part 1421 are amended as follows:

1. The authority citation for 7 CFR Part 1421, Subpart-Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed is added to read as follows:

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

2. The table of contents to 7 CFR Part 1421, Subpart-Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed is amended by adding New § 1421.5559 to read as follows:

* * * * *

1421.5559 OMB Control Numbers Assigned Pursuant to Paperwork Reduction Act.

3. In Section 1421.5551, paragraphs (b) and (d)(2) (iv) and (v) are revised to read as follows:

§ 1421.5551 General Statement and Administration.

* * * * *

(b) Copies of the CCC storage agreement and forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141 (hereinafter referred to as the "KCCO").

* * * * *

(d) * * *

(2) * * *

(iv) A current financial statement on Form WA–51–2, "Financial Statement", supported by such supplemental schedules as CCC may request. Financial statements may be submitted on forms other than Form WA–51–2 with approval of the Director, KCCO, or the Director's designee.

(v) Only one financial statement is required for a chain of warehouses owned or operated by a single business entity. If approved by the Director, KCCO, or the Director's designee, the financial statement of a parent company, which includes the financial position of a wholly-owned subsidiary, may be used to meet the CCC standards for approval for the wholly-owned subsidiary.

* * * * *

4. In § 1421.5552, paragraph (c)(2) is revised to read as follows:

§ 1421.5552 Basic standards.

* * * * *

(c) * * *

(2) Be neither suspended nor debarred under applicable CCC suspension and debarment regulations.

* * * * *

5. In § 1421.5553, paragraph (e) is revised to read as follows:

§ 1421.5553 Bonding requirements for net worth.

* * * * *

(e) An irrevocable letter of credit may be accepted by CCC in lieu of the required amount of bond coverage provided that the issuing bank is a commercial bank insured by the Federal Deposit Insurance Corporation. Such standby letter of credit shall be on Form CCC–33A, "Irrevocable Letter of Credit", or on such other form as may be specifically approved by the Director, KCCO, or the Director's designee.

§ 1421.5555 [Amended]

6. Section 1421.5555 is amended by deleting paragraph (b) and by redesignating paragraph (c) as paragraph (b).

7. Section 1421.5556 is revised to read as follows:

§ 1421.5556 Approval of warehouses, requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set forth in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any agreement with CCC or any other agency of the United States.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set forth in this subpart, and

(2) CCC will send any notice of rejection of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred, CCC will approve the warehouse if the warehouseman establishes that the causes for CCC's rejection of approval have been remedied.

(c) If rejection of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1421.5552, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may, at any time after receiving notice of such

action, request reconsideration of the action and present to the Director, KCCO, in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination and reopening of the hearing shall be as prescribed in the ASCS regulations governing appeals, 7 CFR 780. When appealing under such regulations, the warehouseman shall be considered as a "participant"; and

(2) In § 1421.5552(c)(2), the warehouseman's administrative appeal rights with respect to suspension and debarment shall be in accordance with applicable CCC regulations. After expiration of a period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

8. Section 1421.5558 is revised to read as follows:

§ 1421.5558 Contract fees.

(a) Each warehouseman who has a non-Federally licensed grain or rice warehouse in States that do not have a Cooperative Agreement with CCC for warehouse examinations must pay an annual contract fee to CCC for each such warehouse which is approved by CCC or for which CCC approval is sought as follows:

(1) A warehouseman who has an existing agreement with CCC for the storage or handling of CCC-owned commodities or commodities pledged to CCC as loan collateral must pay an annual contract fee for each warehouse approved under that agreement in advance of the renewal date of such agreement.

(2) A warehouseman who does not have an existing agreement with CCC for the storage and handling of CCC-owned commodities or commodities pledged to CCC as loan collateral but who desires such an agreement must pay a contract fee for each warehouse for which CCC approval is sought prior to the time that the agreement is approved by CCC.

(b) The amount of the contract fee shall be determined and announced annually in the **Federal Register.**

9. Part 1421 is amended to add a new § 1421.5559 to read as follows:

§ 1421.5559 OMB control numbers assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in this regulation (7 CFR Part 1421) have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560–0009 and 0560–0036.

Signed at Washington, D.C. on July 17, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85–17383 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Skystar International, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Skystar International, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Skystar International, Inc. on July 3, 1985, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.2 [Amended]

In § 238.3 aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, "Skystar International, Inc."

* * * * *

Dated: July 10, 1985.

Marvin J. Gibson,

Acting Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 85–17278 Filed 7–19–85; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in Geologic Repositories

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for the disposal of high-level radioactive wastes in geologic repositories. These amendments will ensure that the rule contains specific criteria for the disposal of high-level radioactive wastes within the unsaturated zone. This action is necessary to assure that NRC regulations address considerations relevant to all geologic repositories,

whether sited in the saturated or unsaturated zone.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Frank A. Costanzi, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4362.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1981, the Nuclear Regulatory Commission (NRC) promulgated a rule that established procedures for licensing the disposal of high-level radioactive wastes (HLW) in geologic repositories (46 FR 13971). NRC promulgated technical criteria to be used in the evaluation of license applications under those procedures on June 21, 1983 (48 FR 28194). Although these technical criteria are generally appropriate to disposal in both the saturated and unsaturated hydrogeologic zones, some further distinctions need to be made for disposal in the unsaturated zone. Consequently, the Commission expressed its intent to issue specific technical criteria for the unsaturated zone after promulgating the final technical criteria so as to afford further opportunity for public comment on this issue. Proposed amendments to these technical criteria to include HLW disposal within either the saturated or unsaturated zone were published for comment on February 16, 1984. These proposed amendments contained provisions for new definitions and favorable and potentially adverse siting criteria. In addition to the proposed amendments, the Commission specifically requested public input on two questions related to groundwater travel time calculations within the unsaturated zone. In conjunction with the proposed amendments, the Commission published for public comment draft NUREG–1046 [1] which contained a discussion of the principal technical issues considered by the Commission during the development of the proposed amendments.

Summary of Comments and Changes

A total of fourteen groups and individuals commented on the proposed amendments and draft NUREG–1046. There was general acceptance of the Commission's view that disposal of HLW within the unsaturated zone is a viable alternative to disposal within the saturated zone. The commenters addressed the Commission's specific questions on groundwater travel time within the unsaturated zone and provided additional comments suggesting word changes to improve the technical accuracy and clarity of the proposed amendments. The principal comments received on the questions and proposed amendments, and the Commission's corresponding responses, are discussed below. Changes and clarifications made in the rule as a result of the Commission's consideration of these comments are also explained in this section. Copies of the individual comment letters and a detailed analysis of these letters by the NRC staff are available in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

(a) Groundwater Travel Time Calculations

Technical criteria governing the post-emplacement performance of the particular barriers of the and geologic repository system (i.e. engineered barriers and geologic setting) are set forth at § 60.113 (48 FR 28224; June 21, 1983). The post-closure performance criterion for the geologic setting set forth at § 60.113(a)(2) requires that the geologic repository be located so that pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment be at least 1,000 years or such other travel time as may be approved or specified by the Commission. Although no change was made explicitly to the provisions of § 60.113(a)(2) in the proposed amendments for the unsaturated zone, the proposed definition of the term "groundwater" set forth at § 60.2 would clearly make the scope of § 60.113(a)(2) applicable to geologic repositories within either the saturated or unsaturated zone. Similarly, the proposed amendment to the Siting Criteria (§ 60.122(b)(7)) would have the effect of making pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment which substantially exceeds 1,000 years a favorable condition for HLW disposal within either hydrogeologic zone.

In the statement of considerations which accompanied the proposed amendments, the Commission discussed possible limitations of the pre-waste-emplacement groundwater travel time performance objective of § 60.113 when applied to the unsaturated zone. However, the Commission stated that if DOE could demonstrate with reasonable assurance that travel time for groundwater movement through the unsaturated zone can be quantified, then DOE should be allowed to include such travel time when demonstrating compliance with § 60.113(a)(2). The Commission also acknowledged that it may be more appropriate to specify another parameter upon which performance may be evaluated for a geologic setting in the unsaturated zone, or to use the approach set forth in § 60.113(b) which provides the Commission with the flexibility to specify variations in performance objectives on a case-by-case basis, as long as the overall system performance objective is satisfied. Further, the Commission observed that calculations of pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel through the unsaturated zone could involve considerable uncertainty, and thus requested public comment on questions related to the applicability of the existing 10 CFR Part 60 performance objective for the geologic setting to sites located in unsaturated geologic media. In response to this solicitation of public comment, seven of the fourteen commenters specifically addressed the questions on groundwater travel time calculations. These questions and the views expressed by the seven commenters are reviewed below.

The notice of proposed rulemaking first requested comment on how groundwater travel time in the unsaturated zone could be determined with reasonable assurance. Comments received in response to this question were divided nearly equally into two categories. The first group of commenters argued that presently it would be difficult to calculate groundwater travel time in the unsaturated zone with reasonable assurance because of the lack of generally acceptable methodology and the limited scope of research efforts currently devoted to this question. A second group of commenters, comprised predominantly of representatives of

[1] Draft NUREG–1046—*Disposal of High-Level Radioactive Wastes in the Unsaturated Zone: Technical Considerations* is currently being revised to reflect changes made in the amendments to 10 CFR Part 60 related to HLW disposal within the unsaturated zone. When this revision is completed, a copy of NUREG–1046 will be placed in the Commission's Public Document Room. Upon publication, copies of NUREG–1046 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

other Federal agencies, endorsed the opinion that groundwater travel time could be determined with reasonable assurance. One of these commenters indicated that groundwater travel time calculations could be made by measuring the amount of natural tritium in the groundwater samples from a vertical profile in unsaturated geologic formations. Two other commenters stated that groundwater travel time could be derived from groundwater flux using measurements of ambient water content, degree of saturation, matric potential and hydraulic conductivity to determine moisture-characteristic curves relating these parameters to one another. These curves can be developed so as to predict constitutive relationships over a wide range of conditions. From these relationships and flux determinations these commenters argued that groundwater velocities and subsequently groundwater travel times could then be estimated. One of these two commenters further stated that reasonable assurance may be gained in estimating groundwater travel time using results of laboratory testing, state-of-the-art direct determinations in the field or laboratory, and bounding estimates developed by indirect methods, while both commenters indicated that reasonable assurance may also be gained by incorporating uncertainty analyses into predictive models.

The Commission recognizes that prior to the commencement of HLW disposal studies most groundwater investigations in unsaturated geologic media were generally limited in scope to issues related to near-surface,highly porous soils and unconsolidated rock types. Efforts to predict groundwater movement through potentially suitable geologic repository sites within the unsaturated zone often entail the application of hydrogeologic theories, models and methodologies governing near-surface, porous media to much deeper hydrogeologic environments and different rock properties than they originally were designed for. The Commission realizes that given the current state of groundwater investigations there may be difficulties associated with groundwater travel time calculations in both the saturated and unsaturated zones, as one commenter observed. However, the Commission concludes that groundwater travel time calculations can be determined in the unsaturated zone, though not necessarily with great precision, provided that the proper level of site characterization analysis is conducted. Following a detailed study of the comments received on this question, the Commission believes it is feasible for DOE to demonstrate compliance with the groundwater travel time provision, using existing field and laboratory experiments. Further, as several commenters indicated, a substantial effort is currently underway to develop new methodologies and to improve existing techniques for measuring the hydrogeologic parameters and flow properties that will provide the necessary imput to groundwater travel time calculations. For example, it was noted that in-situ monitoring techniques, including tracer tests, are undergoing development and may broaden the range of rock types and conditions for which it is feasible to estimate groundwater velocity and, hence, groundwater travel time.

The second part of the first question on which the Commission sought comment centered on whether or not the existing groundwater travel time performance objective in § 60.113(a)(2) should be limited to groundwater movement within the saturated zone. The general consensus among commenters on this issue was that there is no reason to strictly limit the groundwater travel time performance objective to water movement in the saturated zone. Following a review of the discussions presented in these comments the Commission has determined that the groundwater travel time provision (§ 60.113(a)(2)) can be applied to a geologic setting located in either the saturated or unsaturated zone. The Commission could discern no obvious advantage for developing a parallel provision for the unsaturated zone as one commenter suggested. With respect to another commenter's concern that if the Commission decided to retain the groundwater travel time provision, travel time along any segment of the flow path, including the unsaturated zone, should be creditable, provided that reasonable assurance has been demonstrated, the Commission has concluded further that the definition of the term "groundwater" set forth at § 60.2 will allow travel time along subsurface flowpaths to be considered regardless of the hydrogeologic regime through which the water is moving. As defined in § 60.2, "groundwater" means all water which occurs below the land surface. The Commission believes that the concerns of one commenter that it would be inappropriate to limit groundwater travel time to the saturated zone because such an action would not accurately indicate the actual radionuclide transport time from the original location of the waste to the accessible environment will also be largely accommodated by the definition of the term "groundwater" in § 60.2. With respect to the view expressed that the approach set forth in § 60.113(b) may be particularly appropriate in the case of HLW disposal in the unsaturated zone, it should be noted that in those instances when groundwater travel time calculations cannot be demonstrated with reasonable assurance, the Commission may prefer to specify or approve alternative performance objectives pursuant to § 60.113(b).

In its second question related to groundwater travel time the Commission sought public comment on whether groundwater travel time represented an appropriate measure of performance for a site within the unsaturated zone, or whether an alternative performance objective for the geologic setting would be more appropriate. The views expressed by the commenters were nearly equally divided on this issue. Some of the commenters asserted that, although not ideal, the groundwater travel time provision may, under certain circumstances, represent an appropriate measure of performance for a geologic setting in the unsaturated zone. Other commenters argued that groundwater travel time was not an appropriate performance objective for HLW disposal within the unsaturated zone and suggested several alternative performance objectives, as discussed below.

With respect to alternative performance requirements, one commenter considered it unacceptable to establish an alternative performance measure for unsaturated geologic media while using a different measure for a saturated salt site. The Commission anticipates that the decision to apply the groundwater travel time provision to all geologic settings regardless of the hydrogeologic zone in which the site is located should alleviate this commenter's concern. Another commenter stated that although groundwater travel time substantially exceeding 1,000 years is a favorable condition, it is not appropriate as a totally definitive performance objective for disposal in either the saturated or unsaturated zone. However, in view of § 60.113(b), the groundwater travel time performance objective is not such a "totally definitive" objective. The same commenter considered release criteria as the absolute measure of total performance and further argued that realistic estimates of release criteria for the unsaturated zone might not be possible until observations are actually made in shafts and drifts. In response,

the Commission would note that the site characterization program would include such observations. One commenter indicated that if NRC chose to retain the groundwater travel time performance objective that this provision should only be applied if the travel time calculations include combined travel times in the unsaturated and saturated zones so as to better approximate radionuclide transport. The Commission considers the concerns of this commenter to be accommodated by the definition of the term "groundwater" adopted in the final amendments.

Most commenters who argued against the application of the groundwater travel time performance objective to unsaturated geologic media generally suggested alternatives based either on the hydrogeologic concept of flux or upon the case-by-case approach of § 60.113(b).

As derived from U.S. Geological Survey Water Supply Paper–1988 the term groundwater "flux" can be defined as the rate of discharge of groundwater per unit area of porous or fractured geologic media measured at right angles to the direction of flow. In comparison, the term "groundwater travel time" used in 10 CFR Part 60 can be interpreted as the length of time required for a unit volume of groundwater to travel between two locations. Alternatives suggested by the commenters which were based upon the concept of flux included a maximum groundwater flux requirement and a dual "either/or" criterion which would allow the applicant the option of demonstrating compliance with either a minimum groundwater travel time requirement or a maximum groundwater flux requirement. After considering the possibility of an alternative performance objective based upon the maximum groundwater flux, the Commission has decided to retain the groundwater travel time requirement for geologic settings regardless of the hydrogeologic zone in which they are located. This decision was based on the Commission's belief that the groundwater travel time requirement represents an independent measure of the overall hydrogeologic system performance which may encompass a variety of hydrogeologic parameters including groundwater flux. However, the Commission expects that groundwater flux will be an important factor in the technical evaluation of radionuclide releases in the unsaturated zone, as well as in the saturated zone.

The Commission does not consider it necessary to specify a dual "either/or" groundwater criterion suggested by one commenter since under the provisions of § 60.113(b), the Commission already has the flexibility to approve or specify some other radionuclide release rate, designed containment period, or pre-waste-emplacement groundwater travel time on a case-by-case basis. Futher, the Commission anticipates that areally integrated or averaged groundwater flow velocity referred to by this same commenter will be addressed in the evaluation of uncertainties surrounding the groundwater travel time calculations.

In addition, to a performance criterion based upon groundwater flux, other alternative performance criteria were discussed by commenters. DOE, in its original comment letter on the proposed amendments expressed general support for a performance criterion based upon groundwater flux, but in an addendum to this letter concluded that it would be impractical to define a performance objective for the geologic setting based on flux through a geologic repository located in the unsaturated zone. Instead, DOE took the position that an alternative performance objective developed upon the concept of a minimum time for groundwater travel to the accessible environment based on four separate physical events would be more appropriate for the unsaturated zone. The four physical events contained in the suggested DOE alternative performance objective are: (1) The creation of a drying zone around the emplaced wastes, (2) the subsequent return of moisture to the rock surrounding the waste canisters, (3) the travel time through the unsaturated zone and finally, (4) the travel time to the accessible environment by groundwater movement through the saturated zone.

The manner in which these or possibly other events may occur within the geologic repository system will depend upon the interactions of a number of site- and design-specific parameters such as the thermomechanical and hydrogeologic properties of the host rock, thermal loading of the underground facility and waste package design. However, as noted at 48 FR 28203, the Commission believes that it is important to consider both natural and engineered barriers individually and has structured the technical criteria of 10 CFR Part 60 in a way that requires that the natural and engineered barriers each make a definite contribution to the overall system performance objective for the geologic repository. To that end the Commission considers it important to maintain a standard of performance for the geologic setting that is a measure of the quality of the natural barriers and is independent of any interaction between these natural barriers and the engineered barriers.

The existing pre-waste-emplacement groundwater travel time provision (§ 60.113(a)(2)) is such a performance standard since it is characteristic of the area outside of the disturbed zone created by underground facility construction and waste emplacement operations. This parameter is not dependent upon the effects of waste emplacement and is intended to provide assurance of isolation beyond the first 1000 years. The Commission prefers the existing groundwater travel time provision, which is part of its multiple barrier approach, to the alternative performance objective suggested by DOE since the latter does not offer a measure of performance for the geologic setting that can be evaluated independently of design and engineering factors. Further, the physical parameters needed to evaluate pre-waste-emplacement conditions of the geologic setting can be accurately measured with direct and indirect field methodology.

The DOE suggestion would necessitate that estimates of long-term performance of the geologic setting under post-waste-emplacement conditions be used in the Commission's deliberations on whether the groundwater travel time performance objective is met. The uncertainties associated with such estimates can be affected by a number of factors, including the age and nature of the waste and the design of the underground facility. Evaluations of the performance of the geologic setting under post-waste-emplacement condition must also take into account predictions of future changes in the thermomechanical, geochemical and hydrogeologic properties of the geologic setting through time as a result of the creation of a non-isothermal environment due to waste emplacement. The Commission's view is that the present emphasis on pre-waste-emplacement conditions will provide a higher degree of confidence in the continued isolation capabilities of the natural barriers of the geologic setting over the long term.

The view was also expressed by other commenters that the development of a new alternative performance objective to existing § 60.113(a)(2) may not be necessary since the Commission's approach set forth at § 60.113(b) might be a more appropriate means of specifying alternatives to the groundwater travel time criterion. The Commission notes that it is essentially following this approach in its decision to

retain the existing provisions of § 60.113(a)(2) and § 60.113(b).

Following a review of the various alternative performance objectives suggested by the commenters, the Commission considers groundwater travel time to represent a more appropriate parameter upon which the performance of the geologic setting can be evaluated than any of the suggested alternatives because a prescribed groundwater travel time can be generically applied and will provide a conservative estimate of a minimum radionuclide release time to the accessible environment. It should be noted, however, that the Commission still retains the option of applying the provisions of § 60.113(b) instead of § 60.113(a)(2) to a particular geologic setting when such an action is deemed appropriate.

(b) Definition of Groundwater

Three commenters addressed the Commission's proposed definition of the term "groundwater" as meaning "all water below the Earth's surface". Two of these commenters, citing possible confusion among the public and scientific community stated that the Commission should not define "groundwater" in this manner, but rather should limit the use of the term to water within the saturated zone. In contrast, one commenter commended NRC on this definition, but noted that it may not be consistent with the definition of the term included in the proposed EPA environmental standards—40 CFR Part 191. In its proposed rule EPA defined "groundwater" as "water below the land surface in a zone of saturation" (47 FR 58205, December 29, 1982). While the Commission recognizes that limiting the use of the term "groundwater" to water within the saturated zone may currently be a more widely accepted practice, the Commission also notes that numerous members of the scientific community routinely use the term groundwater in the same context as the Commission proposed.

The Commission has carefully reviewed the arguments presented by the commenters on this issue and has decided to retain the definition of groundwater with one minor change—the phrase "Earth's surface" has been replaced by "land surface". This change was made for the sake of clarity and internal consistency with wording in the definition of the term "unsaturated zone". The Commission's decision was based on the fact that, at present, no unique definition of the term "groundwater" appears to be universally accepted in the technical community. Therefore, the Commission has not actually redefined the term "groundwater" as one commenter suggested but rather has adopted one of the commonly used definitions of the term that is most consistent with the Commission's intent concerning the provisions related to groundwater throughout the Part 60 regulation. With respect to the differences between the definition of the term "groundwater" adopted by the Commission and that proposed by EPA, the Commission notes that it does not consider the two definitions to be inconsistent since the scope of the definition adopted in § 60.2 will encompass water within the zone of saturation as well as water within the unsaturated zone. As noted above, the Commission considers it necessary to adopt a broader definition of the term "groundwater" in order to maintain consistency with previous Commission usage of this term and to effectively apply the provisions of 10 CFR Part 60 to the regulation of HLW disposal within unsaturated as well as saturated geologic media. Further, since EPA has not yet promulgated its final environmental standards, the Commission cannot anticipate whether or how "groundwater" will actually be defined in the final EPA regulation.

(c) Definition of the "Unsaturated Zone"

The Commission's proposed definition was derived from U.S. Geological Survey (USGS) Water Supply Paper 1988. Two commenters noted that the phrase "deepest water table" introduced confusion into the definition of the term "unsaturated zone" (§ 60.2). The Commission had inferred that the phrase "deepest water table" as used by the USGS referred to the regional water table and hence adopted this same phraseology in the definition of the term "unsaturated zone" set forth in the proposed amendments to 10 CFR Part 60. However, in light of confusion expressed by commenters which may be due partially to the incorrect inference by some that the phrase "deepest water table" referred to local rather than regional water tables, the definition of term "unsaturated zone" has been modified. To clarify the Commission's original intent, the phrase "deepest water table" has been replaced by "regional water table" in the final amendments. (A conforming change has also been made to the definition of the term "saturated zone"). Additionally, the phrase "water in this zone is under less than atmospheric pressure" has been rewritten as "fluid pressure in this zone is less than atmospheric pressure" for the sake of technical clarity. The Commission has attempted to maintain internal consistency with the definitions of hydrogeologic terms presented in USGS Water Supply Paper 1988 wherever practicable and for this reason has not adopted any of the alternative definitions of the term "unsaturated zone" suggested by the commenters.

(d) Favorable Siting Conditions

Section 60.122(b)(2). The term "low hydraulic potential" has been replaced with "low hydraulic gradient" in § 60.122(b)(2)(iii) as suggested by one commenter for the sake of technical accuracy.

Section § 60.122(b)(7). In addition to comments received in response to the Commission's specific request for input on its questions related to groundwater travel time calculations in the unsaturated zone, the subject of groundwater travel time was also addressed by two commenters on proposed § 60.122(b)(7). The issues raised by these two commenters merit discussion here although they have resulted in no change to the rule.

The provisions of § 60.122(b)(7) have the effect of identifying pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years as a favorable siting criteria for both the saturated and unsaturated zones. Previously these provisions (formerly designated as § 60.122(b)(2)(iv)) applied only to sites within the saturated zone.

One commenter on proposed § 60.122(b)(7) opposed the application of this provision to the unsaturated zone on the grounds that the determination of groundwater travel time in the unsaturated zone may not be necessary nor always be possible. Under such circumstances, this commenter argued, inability to demonstrate that groundwater travel time substantially exceeds 1,000 years should not amount to the absence of a favorable condition. The issue of groundwater travel time in the unsaturated zone has already been discussed in detail in the above section on *Groundwater Travel Time Calculations* and will not be repeated here. With respect to the second part of this comment the Commission reiterates its position set forth in the Supplementary Information to the final 10 CFR Part 60 technical criteria (48 FR 28201) that a site is not disqualified as a result of the absence of a favorable siting condition.

A second commenter on § 60.122(b)(7) expressed the view that for a HLW repository within the unsaturated zone, minimizing leachate flux would appear

to be at least as important as maximizing groundwater travel time. To that end, this commenter fleet that it might be more appropriate to specify as a favorable siting condition a dual "either/or" criterion such that groundwater travel time is greater than 1,000 years or groundwater flux through the host rock at a proposed site is less than some average rate. This rate, it was argued, could be based on nuclide solubility, leach rate criteria, and population exposure criteria. The commenter stated that whichever criterion was ultimately selected it should be based upon an areally integrated or averaged calculation, over an area on the order of the cross-sectional area of the repository normal to the direction of expected flux regardless of hydrogeologic zone to help reduce controversy concerning how the "fastest pathway" can be determined. For a discussion of the concept of applying a dual criterion of either groundwater travel time or groundwater flux see the above section entitled *Groundwater Travel Time Calculations.*

Minor corrections have been made to the provisions of § 60.122(b)(8) for the sake of clarity and technical accuracy as a result of the comments received. The phrase "and nearly constant" has been deleted from § 60.122(b)(8)(i) and a typographical error in the word "overlying" has been corrected.

(e) Potentially Adverse Conditions

Section 60.122(c)(9). This provision of the final technical criteria identified groundwater conditions in the host rock that are not reducing as a potentially adverse condition for the saturated zone. One commenter on the proposed amendments stated that a parallel provision should be provided for the unsaturated zone. The Commission considers this argument to have merit and has modified the final amendments accordingly. Rather than create an additional provision, the Commission has deleted the qualifying phrase "for disposal in the saturated zone" from existing § 60.122(c)(9) to ensure that this provision will be applicable equally to groundwater conditions in the saturated and unsaturated zones.

Section 60.122(c)(23). Minor editorial changes have been made as suggested by one commenter, for the sake of clarity.

Section 60.122(c)(24). During the development of the proposed amendments (47 FR 5935, February 16, 1984) the Commission's staff identified vapor transport of contaminants as a potential concern associated with HLW disposal in the unsaturated zone. The Commission noted that in unsaturated geologic media, water is transported in both liquid and vapor phases. The relative contribution of tranport via both these phases and their direction of movement with respect to a geologic repository was deemed to directly influence the containment of contaminants. Vapor transport, particularly when a thermal gradient is imposed, may provide a possible mechanism for radionuclide migration from a geologic repository in unsaturated geologic media. This issue was discussed at length by the Commission in the proposed amendments and in draft NUREG-1046. The comments received on the discussion of vapor transport and on the wording of the proposed amendment § 60.122(c)(24) indicated a need for the Commission to clarify its intent with respect to vapor transport.

The issue of vapor transport of contaminants is a relatively new issue that has grown out of scientific investigations of the feasibility of HLW disposal in unsaturated geologic media. Since most scientific studies related to HLW disposal within the unsaturated zone have been initiated very recently, many of the associated issues have not as yet been examined in any great detail. The Commission recognized that vapor formation may not necessarily constitute an adverse condition for a particular geologic repository site, but, given the fact that vapor transport could provide a mechanism for radionuclide transport within the unsaturated zone, it wanted the opportunity to evaluate whether or not vapor transport could adversely affect a geologic repository system. To that end the Commission identified the potential for vapor transport of radionuclides from an underground facility located in the unsaturated zone to the accessible environment as a potentially adverse condition in the proposed amendments (§ 60.122(c)(24)). The Commission has not reached any conclusions on vapor transport, as one commenter incorrectly inferred, but rather is currently sponsoring research on vapor transport in unsaturated fractured rock in an effort to better understand this subject.

Some confusion was expressed by the commenters with respect to the Commission's use of the term "vapor transport". In particular, one commenter stated that § 60.122(c)(24), as written, was ambiguous and meaningless. The term "vapor transport" as used in the proposed amendments referred to both water vapor and the gaseous state of some constituent contaminants. A second commenter on this issue suggested that the Commission add quantitative clarifications to this provision since the proposed wording allowed no potential vapor transport of radionuclides by molecular diffusion (i.e., transport at a microscopic level due to concentration gradients) or convective transport (i.e., transport due to temperature or density gradients). The same commenter noted that while the flux values associated with these two transport processes might be miniscule, they would not be zero at any unsaturated site. The Commission does not consider it appropriate to add quantitative clarifications to § 60.122(c)(24) because the movement of radionuclides in the gaseous state is, to a large extent, dependent on site- and design-specific parameters. The Commission considers the movement of radionuclides in the gaseous state may be a potentially important site- and design-related process and will retain the opportunity to evaluate whether or not such a process will adversely affect the geologic repository system. However, to alleviate the confusion surrounding proposed § 60.122(c)(24), the wording of this provision has been extensively modified in the final amendments. Reference to "vapor transport" has been deleted, and this provision now solely addresses the potential for the movement of radionuclides in a gaseous state through air-filled pore spaces of an unsaturated geologic medium to the accessible environment as a potentially adverse condition. The Commission believes the revised wording will more accurately convey its original intent and should remove any ambiguity associated with the previous wording, such as one commenter's query of where the vapor transport is occurring and when it is important.

The Commission agrees with the commenter who indicated that vapor transport may also occur in geologic repositories sited in the saturated zone until resaturation occurs. A temporary, localized, unsaturated region could form around an underground facility within the saturated zone as a result of activities related to construction and operation of a geologic repository (e.g. dewatering of shafts and drifts). To date, the issue of vapor transport has not been raised for a geologic repository within the saturated zone primarily because such a phenomenon would be expected to be encompassed within a much larger saturated region, that is, vapor transport might only be expected to occur in that portion of the host rock where the voids are not completely filled or refilled with groundwater. Further, it is anticipated that the time required for waste package integrity

(300–1,000 yrs) will generally exceed the post-closure time required for resaturation of a geologic repository within the saturated zone (assumed by the NRC staff to occur within a few hundred years following permanent closure). Therefore, the Commission does not consider it necessary at this time to identify vapor transport as a potentially adverse condition for HLW disposal within the saturated zone. However, if future research in the area of vapor transport challenges these current assumptions, the Commission may decide to broaden the provisions of § 60.122(c)(24) to include both the saturated and unsaturated zones.

(f) Design Criteria

Changes were made to provisions of the final technical criteria related to design criteria. The provisions of § 60.133(f) have been modified to more closely identify the concept of a potential for creating a preferential pathway for groundwater to contact the waste packages. This change was prompted by a commenter's observation that as originally worded, this provision might not be internally consistent with new § 60.122(b)(8)(iv) which identifies a host rock that provides for free drainage as a favorable hydrogeologic condition in the unsaturated zone. Similar word changes have been made to the provisions of § 60.134(b) for consistency with § 60.122(b)(8)(iv). Additionally, the phrase "radioactive waste migration" has been changed to "radionuclide migration" in both § 60.133(f) and § 60.134(b) for the sake of technical accuracy. The changes should ensure that these provisions will be equally applicable to geologic repositories within either the saturated or unsaturated zone, and will more accurately convey the Commission's original intent.

Environmental Impact

Pursuant to Section 121(c) of the Nuclear Waste Policy Act of 1982, the promulgation of these criteria does not require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969 or any environmental review under subparagraph (E) or (F) of Section 102(2) of such Act.

Paperwork Reduction Act Statement

The final rule contains no new or amended recordkeeping, reporting or application requirement, or any other type of information collection requirement subject to the Paperwork Reduction Act (Pub. L. 96–511).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The only entity subject to regulation under this rule is the U.S. Department of Energy, which is not a small entity as defined in the Regulatory Flexibility Act.

List of Subjects in 10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Waste treatment and disposal.

Issuance

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR Part 60.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); sec. 121, Pub. L. 97–425, 96 Stat. 2228 (42 U.S.C. 10141).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 60.71 to 60.75 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 60.2 is amended by adding two new definitions of "Groundwater" and "Unsaturated zone" in proper alphabetical sequence and revising the existing definition of "Saturated zone" to read as follows:

§ 60.2 Definitions.

* * * * *

"Groundwater" means all water which occurs below the land surface.

* * * * *

"Saturated zone" means that part of the earth's crust beneath the regional water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

* * * * *

"Unsaturated zone" means the zone between the land surface and the regional water table. Generally, fluid pressure in this zone is less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the fluid pressure locally may be greater than atmospheric.

* * * * *

3. Section 60.122 is amended by revising paragraphs (b)(2)(iii) and (c)(9), redesignating and revising paragraph (b)(2)(iv) as (b)(7), and adding new paragraphs (b)(8), (c)(22), (23) and (24) to read as follows:

§ 60.122 Siting criteria.

* * * * *

(b) * * *

(2) * * *

(iii) Low vertical permeability and low hydraulic gradient between the host rock and the surrounding hydrogeologic units.

* * * * *

(7) Pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years.

(8) For disposal in the unsaturated zone, hydrogeologic conditions that provide—

(i) Low moisture flux in the host rock and in the overlying and underlying hydrogeologic units;

(ii) A water table sufficiently below the underground facility such that fully saturated voids contiguous with the water table do not encounter the underground facility;

(iii) A laterally extensive low-permeability hydrogeologic unit above the host rock that would inhibit the downward movement of water or divert downward moving water to a location beyond the limits of the underground facility;

(iv) A host rock that provides for free drainage; or

(v) A climatic regime in which the average annual historic precipitation is a small percentage of the average annual potential evapotranspiration.

(c) * * *

(9) Groundwater conditions in the host rock that are not reducing.

* * * * *

(22) Potential for the water table to rise sufficiently so as to cause saturation of an underground facility located in the unsaturated zone.

(23) Potential for existing or future perched water bodies that may saturate

portions of the underground facility or provide a faster flow path from an underground facility located in the unsaturated zone to the accessible environment.

(24) Potential for the movement of radionuclides in a gaseous state through air-filled pore spaces of an unsaturated geologic medium to the accessible environment.

* * * * *

4. Section 60.133 is amended by revising paragraph (f) to read as follows:

§ 60.133 Additional design criteria for the underground facility.

* * * * *

(f) Rock excavation. The design of the underground facility shall incorporate excavation methods that will limit the potential for creating a preferential pathway for groundwater to contact the waste packages or radionuclide migration to the accessible environment.

* * * * *

5. Section 60.134 is amended by revising paragraphs (b)(1) and (6)(2) to read as follows:

§ 60.134 Design of seals for shafts and boreholes.

* * * * *

(b) * * *

(1) The potential for creating a preferential pathway for groundwater to contact the waste packages or (2) for radionuclide migration through existing pathways.

Dated at Washington, DC, this 16th day of July, 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-17364 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-62-AD; Amdt. 39-5105]

Airworthiness Directives; Boeing Model 737-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 737-300 series airplanes by individual telegrams. The AD requires the use of only those fuels known to perform properly in the Boeing Model 737-300 fuel system. This action is prompted by four incidents of loss-of-power during climb while using JP-4 fuel.

DATES: Effective August 6, 1985 as to all persons except those persons to whom it was made immediately effective by telegraphic AD T85-11-52, issued June 7, 1985, which contained this amendment.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Miller, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On June 7, 1985, telegraphic AD T85-11-52 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Model 737-300 series airplanes. The AD requires the use of only certain approved fuels and and appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by reports from one operator of a Boeing Model 737-300 airplane who had experienced four loss-of-power incidents during climb while using JP-4 fuel. One of these events resulted in a flame out. Two of these events occurred on the same flight and affected both engines at nearly the same time.

The manufacturer has confirmed through flight test that use of JP-4 fuel in the system as presently configured can result in engine power rollback during climb. This rollback event could result in engine flameout and could occur simultaneously on both engines.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 7, 1985, to all known U.S. owners and operators of Boeing Model 737-300 airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (other wise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a) 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 series airplanes certificated in any category. To prevent engine flameouts during climb, accomplish the following, unless already accomplished:

1. Before further flight ensure that the fuel being used is one of the following types:

- Jet A or A1 conforming to specification ASTM-D-1655;
- JP5 conforming to MIL-T-5624;
- Fuels conforming to DERD 2494 or 2498; or
- Fuels conforming to AIR 3404 or 3405.

2. Within 48 hours incorporate the following information into the Limitations Section of the Airplane Flight Manual and provide to crews:

"The only approved fuels are Jet A and A1 conforming to Specification ASTM-D-1655, JP5 conforming to MIL-T-5624, fuels conforming to DERD 2494 or 2498, and fuels conforming to AIR 3404 or 3405."

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

Note.—Compliance with paragraph 2. of this directive may be effected by including a copy of this AD in the Airplane Flight Manual and Operating Manual.

This amendment becomes effective August 6, 1985. It was effective earlier to all recipients of telegraphic AD 85-11-52, issued June 7, 1985, which contained this amendment.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-17313 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ASW-10, Amdt. 39-5093]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) Model SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the main rotor mast on Aerospatiale Model SA 365 series helicopters. The AD is needed to detect corrosion or cracks which could result in failure of the main rotor mast and subsequent loss of control of the helicopter.

EFFECTIVE DATE: July 30, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone number 513.38.30; or R.T. Weaver, Rotorcraft Standards Staff, ASW-110, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2548.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of the main rotor mast for cracks and repair or replacement, as necessary, on certain Aerospatiale Model SA 365 series helicopters was published in the **Federal Register** on April 12, 1985 (50 FR 14390).

The proposal was prompted by reports of corrosion of main rotor masts occurring as a result of fretting or finish deterioration which could result in fatigue cracking and crack growth which could cause loss of the helicopter.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation only involves 13 helicopters in operation in the United States with an annual cost of $2,800 for each helicopter. Therefore, I certify that this action: (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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) 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 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Aerospatiale (Societe Nationale Industrielle Aerospatiale): Applies to Aerospatiale Model SA 365 series helicopters, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the main rotor mast, accomplish the following:

(a) For helicopters which have 250 hours' or more time in service on the main rotor mast on the effective date of this AD, inspect in accordance with paragraph (d) within 50 hours' time in service.

(b) For those helicopters which have less than 250 hours' time in service on the main rotor mast on the effective date of this AD, inspect in accordance with paragraph (d) before reaching 300 hours' time in service.

(c) For those helicopters exhibiting a severe tracking defect, inspect in accordance with paragraph (d) before further flight.

(d) Remove the main rotor hub from the main rotor mast and inspect the mast in accordance with Service Bulletin No. 05.08 (for Model SA 365C series helicopters) and Service Bulletin No. 05.04 (for Model SA 365N helicopters) or FAA-approved equivalent, as appropriate.

(e) Replace any cracked mast with a serviceable part.

(f) Reinstall the main rotor hub in accordance with Service Bulletin No. 05.08, Service Bulletin 05.04, or FAA-approved equivalent, after completion of the inspection and rework of paragraphs (d) and (e).

(g) Repeat the inspections required in paragraph (d) at intervals not to exceed 300 hours' time in service from the last inspection.

(h) After the installation of a corrosion resistant mast (P/N 365A31-1179-02), the inspections of paragraphs (a), (b), (d), and (g) no longer apply.

(i) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, FAA, P.O. Box 1689, Forth Worth, Texas 76101, or by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium 09667.

(j) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the inspections required by this AD may be accomplished.

This amendment becomes effective July 30, 1985.

Issued in Fort Worth, Texas, on July 2, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-17311 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-68-AD; Amdt. 39-5104]

Airworthiness Directives; Boeing Model 737-100 and 737-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 737-100 and -200 airplanes by individual telegrams. The AD applies to airplanes equipped with Plessey Type 8240 Mark 1, 2, or 3 fuel boost pumps. The AD requires the use of only those fuels known to perform properly in the fuel system. This action is prompted by one incident of loss-of-power during climb while using JP-4 fuel.

DATES: Effective August 6, 1985 as to all persons except those persons to whom it was made immediately effective by telegraphic AD T85-12-51, issued June 13, 1985, which contained this amendment.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Miller, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On June 13, 1985, telegraphic AD T85-12-51 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Models 737-100 and 737-200 series airplanes. The AD required the use of only certain approved fuels and an appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by a report from one operator of a Model 737-200 airplane equipped with Plessey pumps who had experienced a flameout during climb while using JP-4 fuel.

As a result of the manufacturer's flight test on an instrumented Model 737-300 airplane, the FAA has concluded that use of JP-4 in the Models 737-100 and 200 fuel systems equipped with Plessey pumps can also result in engine power loss during climb. This loss of power could possibly occur simultaneously on both engines.

Most Boeing Model 737-100 and -200 airplanes have been delivered with TRW boost pumps. However, since late in 1984, a small number of these airplanes have been delivered with Plessey Type 8240 Mark 1, 2, or 3 pumps. These pumps are interchangeable with TRW pumps in all Model 737 series airplanes.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 13, 1985, to all known U.S. owners and operators of Boeing Models 737-100 and 737-200 series airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evalution or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evalution or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737-100 and -200 series airplanes equipped with Plessey Type 8240 Mark 1, 2, or 3 boost pumps and certificated in any category.

To prevent engine flamouts during climb, accomplish the following, unless already accomplished:

1. Before further flight ensure that the fuel being used in one of the following types:

• Jet or A1 conforming to specification ASTM-D-1655; or

• JP-5 conforming to MIL-T-5624.

2. Within 48 hours incorporate the following information into the Limitations Section of the Airplane Flight Manual and provide to crews:

"The only approved fuels are Jet A and A1 conforming to Specification ASTM-D-1655, and JP-5 conforming to MIL-T-5624."

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

Note.—Compliance with Paragraph 2. of this directive may be effected by including a copy of this AD in the Airplane Flight Manual and Operating Manual.

This amendment becomes effective August 6, 1985.

It was effective earlier to all recipients of telegraphic AD T85-12-51, issued June 13, 1985, which contained this amendment.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 85-17310 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-128-AD; Amdt. 39-5103]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the forward and/or aft lavatory waste containers to improve the service life of the container and provide container sealing capacity for enhanced fire containment on McDonnell Douglas DC-9 and C-9 (Military) series airplanes. This action is necessary to assure the fire containment capability of the lavatory waste containers.

DATES: Effective August 26, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

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

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring modification of the forward and/or aft lavatory waste containers on McDonnell Douglas DC-9 and C-9 (Military) series airplanes was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 26, 1985 (50 FR 7794). The comment period for the proposal closed on April 8, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Eight comments were received. Six commenters had no

objections to the issuance of the proposed AD.

The seventh commenter noted that the proposed modification appeared to overlook the opening at the top of the waste chute which would allow a fire in the waste container to exit into the area beneath the sink cabinet. On the contrary, the FAA has determined that one of the primary objectives of the proposed modification is to seal the gap that exists in this area so that the fire is contained. This is accomplished for the aft lavatory waste container by the addition of P/N 5919130-BF3 left side (-BF4 right side) chute extension or installation of the new P/N 5919130-21 left side (-22 right side) longer chute assembly. In conjunction with this chute extension, both the forward and aft lavatory waste chutes' interior surfaces are sealed in the area at the opening to the top of the waste chute including three inches down the throat of the cabinet assembly, using Scotch 425 (aluminized) tape. Waste containers modified in this manner that include the other changes specified by this AD have been shown by actual tests to contain fires likely to occur therein.

The last commenter suggested that operator emphasis on maintenance of the existing waste container door hinge spring and compressive pad should be adequate to assure the proper door seal without the need to attempt to trim the edge of the container opening to improve the door seal. Further, this commenter stated that extension of the upper aft lavatory waste chute could be adequately accomplished by the application of fireproof tape during modification of the waste chute door hinge. The FAA does not agree. In some cases, the gap at the top of the aft lavatory waste chute interface with the cabinet assembly was found to be too large to adequately support the application of tape when exposed to a fire environment within the waste container. Extension of the aft lavatory waste chute corrects this problem. Also, trimming of the waste container opening at the cleanout door to eliminate gaps is necessary, in conjunction with upper waste chute modifications, to assure adequate control of air leakage in the waste container commensurate with the demonstrated fire containment capability.

It is estimated that 601 U.S. registered airplanes will be affected by this proposed AD, that it will take approximately 13.0 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The actual cost of modification parts is estimated to be $339 per airplane. Based on these figures, the total cost impact of this AD is expected to be $516,259.

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 following rule.

For the reasons discussed above, 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, Model DC-9 and C-9 (Military) airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, certificated in any categories. Compliance required as indicated unless previously accomplished.

To assure the fire containment capability of the lavatory waste containers, accomplish the following:

A. Within 18 months after the effective date of this airworthiness directive (AD), modify the forward and/or aft lavatory waste containers in accordance with the Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 25-259, dated April 11, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles 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 in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 26, 1985.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 85-17309 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ANE-09; Amdt. 39-5079]

Airworthiness Directives; Slingsby Aircraft Company, Ltd., Model T.53.B Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) applicable to Slingsby T.53.B gliders certificated in all categories. This amendment provides for: (a) An initial and a repetitive dye penetrant inspection in lieu of a visual inspection of wing center section joint to frame attachment brackets, (b) an initial and repetitive dye penetrant inspection for fatigue cracks of two additional structural parts, wing center section joint to frame metal lugs and channel, and their replacement, if required, and (c) an optional method of demonstrating compliance with the AD requirements, for Slingsby Aircraft Company, Limited, Model T.53.B Gliders. This amendment is needed because the FAA has determined that the visual inspection method specified in the existing AD is inadequate to detect fatigue cracks occurring in wing and fuselage structural components, and there is a need to dye penetrant inspect two additional parts for fatigue cracks, to prevent possible loss of a glider.

DATES: Effective—July 22, 1985.

Incorporation by Reference—Approved by the Director of the Federal Register July 22, 1985.

ADDRESSES: The applicable service information may be obtained from:

Slingsby Engineering Limited, Ings Lane, Kirbymoorside, York, Y06, 6EZ, England.

A copy of the service information is contained in the Rules Docket, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 ext. 2710, or Terry Fahr, ANE-153, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park Burlington, Massachusetts 01803, telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-2308 (40 FR 32318), AD 75-17-07, which currently imposes flight restrictions; requires repetitive visual inspections of the fuselage frame P/N T53B-1079 for fatigue cracks, and modifications as necessary; and requires repetitive visual inspections of the wing attach brackets P/N T53B-10-168 for fatigue cracks, and replacements, if required, on Slingsby Aircraft Company, Limited, Model T.53.B Gliders. Amendment 39-2308 also provides for removing the flight restrictions if the modifications and replacements are accomplished. After issuing Amendment 39-2308, the FAA has determined that an additional fatigue crack repetitive dye penetrant inspection and replacement, if required, of two additional structural components, metal lugs P/N T53B-10-115 and channel section P/N T53B-10-118, are necessary. The FAA has also determined that the visual inspection of the wing attach brackets P/N T538-10-168 is inadequate and must be changed to a dye penetrant inspection. This AD differs from Amendment 39-2308 by (1) requiring a dye penetrant inspection in lieu of the visual inspection of the wing attachment brackets P/N T53B-10-168 in paragraph (b), (2) adding paragraph (f) to require a repetitive dye penetrant inspection of the metal lugs P/N T53B-10-115 and channel section P/N T53B-10-118, and (3) adding a paragraph to allow for an equivalent means of compliance.

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

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket, otherwise, an evaluation or analysis is not required. A copy of it, when filed, 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, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423, 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and (14 CFR 11.89); 49 CFR 1.47.

2. By adding the following new AD:

Slingsby Sailplanes: Applies to Slingsby T.53.B gliders certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent structural failure due to fatigue cracks, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, install a placard on the instrument panel in full view of the pilot reading: "CLOUD FLYING AND AEROBATIC MANEUVERS PROHIBITED".

(b) (1) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 5 hours time in service from the last inspection, visually inspect the welded frame P/N T53B-1079, which joins the forward spar member with the rear spar member of the fuselage center section, for cracks at the forward extremity of the lower two tubes where they are welded to the thin vertical channels.

(2) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 5 hours time in service from the last inspection, inspect the two aft brackets (welded brackets—P/N T53B-10-168, Issue 1-4; riveted brackets—P/N T53B-10-168, Issue 5) that attach the wing center section to fuselage frame No. 6 for fatigue cracks using the dye penetrant crack detection method in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(c) If cracks are found as a result of the inspections required by paragraph (b)(1), prior to further flight, modify the tubular structure in accordance with Slingsby Sailplanes Technical Instruction No. 68, dated August 14, 1974, or an FAA-approved equivalent.

(d) If cracks are found as a result of the inspections required by paragraph (b)(2), prior to further flight, replace the aft two brackets in accordance with Slingsby Sailplanes Technical Instuction No. 70, dated September 11, 1974, or an FAA-approved equivalent, and Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(e) The placard required by paragraph (a) may be removed, and the inspections required by paragraph (b) may be discontinued, after the modification of the tubular structure, in accordance with Slingsby Sailplanes Technical Instruction No. 68, dated August 14, 1974, or an FAA-approved equivalent, has been accomplished, and when the aft two brackets have been replaced in accordance with Slingsby Sailplanes Technical Instruction No. 70, dated September 11, 1974, or an FAA-approved equivalent, and Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(f) Within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the past 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, comply with the following:

(1) Dye penetrant inspect the metal lugs P/N T53B-10-115, and channel section P/N T53B-10-118, on fuselage frame No. 6, in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(2) If cracks are found as a result of the inspections required by paragraph (f)(1) of the AD, prior to further flight, replace the metal lugs and/or channel section in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or FAA-approved equivalent.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA,

c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 ext. 2710.

Slingsby Sailplane Technical Instruction No. 70 dated September 11, 1974, Slingsby Sailplane Technical Instruction No. 68 dated August 14, 1974, and Slingsby Engineering Limited Technical Instruction No. 100/T53 dated October 20, 1981, are incorporated herein and made a part hereof pursuant to 5 U.S.C 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Slingsby Engineering Limited, Ings Lane, Kirbymoorside, York Y06, 6EZ, England. These documents also may be examined at the Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on July 22, 1985.

This AD supersedes Amendment 39-2308 (40 FR 32318), AD 75-17-07.

Issued in Burlington, Massachusetts, on June 10, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-17303 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 24720; Amdt. No. 1299]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment 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 97

Approaches, Standard instrument; Aviation safety.

Issued in Washington, D.C. on July 12, 1985.

John S. Kern,

Acting Director of Flight Operations.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

2. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

Effective September 26, 1985

Macon, MO—Macon-Fower Meml, VOR Rwy 2, Orig
Macon, MO—Macon-Fower Meml, VOR/DME Rwy 20, Orig

Effective August 29, 1985

Haleyville, AL—Posey Field, VOR/DME Rwy 18, Amdt. 2
Wetumpka, AL—Wetumpka Muni, VOR-A, Amdt. 1
Toccoa, GA—Toccoa RG Letourneau Field, VOR Rwy 20, Amdt. 10
Sullivan, IN—Sullivan County, VOR/DME-A, Orig
Sullivan, IN—Sullivan County, VOR/DME-A, Amdt. 5 Cancelled
Terre Haute, IN—Hulman Regional, VOR Rwy 23, Amdt. 17
Terre Haute, IN—Hulman Regional, VOR/DME Rwy 5, Amdt. 14
Welsh, LA—Welsh, VOR/DME Rwy 6, Amdt. 2
Gardner, MA—Gardner Muni, VOR-A, Amdt. 4
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 18
Muskegon, MI—Muskegon County, VOR/DME Rwy 6, Amdt. 8
Albert Lea, MN—Albert Lea Muni, VOR Rwy 16, Amdt. 6
Kansas City, MO—Kansas City Downtown, VOR Rwy 3, Amdt. 13
Kansas City, MO—Kansas City Downtown, VOR Rwy 19, Amdt. 17
Kansas City, MO—Kansas City Downtown, VOR Rwy 21, Amdt. 11
Ponce, PR—Mercedita, VOR Rwy 30, Amdt. 10
Allendale, SC—Allendale County, VOR-A, Amdt. 3
Columbia, SC—Columbia Metropolitan, VOR-A, Amdt. 14
Dillon, SC—Dillon County, VOR/DME Rwy 6, Amdt. 4
Terrell, TX—Terrell Muni, VOR/DME Rwy 35, Amdt. 2

Effective August 1, 1985

Columbia, MO—Columbia Regional, VOR Rwy 13, Amdt. 3
Columbia, MO—Columbia Regional, VOR Rwy 20, Amdt. 9

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, VOR Rwy 14, Admt. 18

3. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

Effective August 29, 1985

Auburn, AL—Auburn-Opelika Robert G. Pitts, LOC Rwy 36, Amdt. 1
Fayetteville, AR—Drake Field, LOC Rwy 16, Amdt. 14
Denver, CO—Stapleton Intl, LOC/DME BC Rwy 17R, Amdt. 16 cancelled
Terre Haute, IN—Hulman Regional, LOC BC Rwy 23, Amdt. 17l
Muskegon, MI—Muskegon County, LOC Rwy 24, Amdt. 6
Muskegon, MI—Muskegon County, LOC BC Rwy 14, Amdt. 6
Laurel/Hattiesburg, MS—Pine Belt Regional, LOC BC Rwy 36, Orig
St. Louis, MO—Lambert-St. Louis Intl, LOC BC Rwy 6, Amdt. 1
Columbus, NE—Columbus Muni LOC Rwy 14, Amdt. 5
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, LOC/DME BC Rwy 8, Amdt. 3

The FAA published an Amendment in Docket No. 24685, Amdt. No. 1297 to Part 97 of the Federal Aviation Regulations (VOL 50 FR No. 119 Page 25548; dated June 20, 1985) under Section 97.25 effective August 1, 1985, which is hereby amended as follows:

Lake Charles, LA—Lake Charles Muni, LOC BC Rwy 33, Amdt. 15 change the effective date to June 10, 1985.

4. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, NDB Rwy 8, Amdt. 6

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, NDB Rwy 5, Amdt. 15
Sibley IA—Sibley Muni, NDB Rwy 17, Orig
Sibley IA—Sibley Muni, NDB Rwy 35, Orig
Topeka, KS—Forbes Field, NDB Rwy 31, Amdt. 6
DeRidder, LA—Beauregard Parish, NDB Rwy 36, Amdt. 1
Tewksbury, MA—TEW-MAC, NDB-A, Amdt. 3
Muskegon, MI—Muskegon County, NDB Rwy 32, Amdt. 10
Kansas City, MO—Kansas City Downtown, NDB Rwy 19, Amdt. 15
Dillon, SC—Dillon County, NDB Rwy 6, Amdt. 4
Watertown, WI—Watertown Muni, NDB Rwy 23, Amdt. 1

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, NDB Rwy 28, Amdt. 24

The FAA published an Amendment in Docket No. 24685, Amdt. No. 1297 to Part 97 of the Federal Aviation Regulations (VOL 50 FR No. 119 Page 25548; dated June 20, 1985) under Section 97.27 effective July 4, 1985, which is hereby amended as follows:

Seattle, WA—Seattle-Tacoma Intl, NDB Rwy 16L/R, Amdt. 4 is rescinded. NDB Rwy 16L/R, Amdt. 4 published in Docket No. 24635; Amdt. No. 1294, Vol 50, No. 90 dated Thursday, May 9, 1985, remains current.

5. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, ILS Rwy 8, Amdt. 2

Effective August 29, 1985

Fort Myers, FL—Southwest Florida Regl, ILS Rwy 6, Amdt. 2
St. Petersburg Clearwater, FL—St. Petersburg-Clearwater Intl, ILS Rwy 17L, Amdt. 18
Terre Haute, IN—Hulman Regional, ILS Rwy 5, Amdt. 19
Muskegon, MI—Muskegon County, ILS Rwy 32, Amdt. 15
Kansas City, MO—Kansas City Downtown, ILS Rwy 19, Amdt. 17
Glens Falls, NY—Warren County, ILS Rwy 1, Admt. 3

Effective August 1, 1985

New Bedford, MA—New Bedford Muni, ILS Rwy 5, Amdt. 22

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, ILS Rwy 28, Amdt. 28

6. By amending § 97.31 RADAR SIAPs identified as follows:

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, RADAR-1, Amdt. 2

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, RADAR 1, Amdt. 5

7. By amending § 97.33 RNAV SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, RNAV Rwy 8, Amdt. 2

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, RNAV Rwy 31, Amdt. 5
Muskegon, MI—Muskegon County, RNAV Rwy 6, Amdt. 2
Muskegon, MI—Muskegon County, RNAV Rwy 14, Amdt. 7
Junction, TX—Kimble County, RNAV Rwy 17, Orig
Watertown, WI—Watertown Muni, RNAV Rwy 5, Orig, Cancelled

[FR Doc. 85-17312 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM84-15-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

July 16, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of update to benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5, the Commission issues the update to the "advisory" benchmark rate of return on common equity applicable to rate filings made during the period August through October of 1985. This rate is set at 13.96 percent.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8015.

SUPPLEMENTARY INFORMATION:

Update to Benchmark Rate of Return on Common Equity for Public Utilities

On May 20, 1985, the Commission issued a final rule establishing an "advisory" benchmark rate of return on common equity applicable to rate filings made from July 1 through July 31, 1985 and a procedure for updating the advisory benchmark quarterly through January of 1986.

This notice provides the first quarterly update to the benchmark rate of return. As provided in § 37.9, the quarterly updates are based on changes in the median dividend yield for a sample of 100 utilities, applied to a formula with fixed adjustment factors (determined in the annual proceeding) and subject to a 50 basis point cap on the quarter-to-quarter changes.[1]

The median dividend yield for the sample of utilities for the second calendar quarter of 1985 is 9.08 percent.[2] Applying this yield to the formula for estimating the cost of common equity, and subject to the 50 basis point cap, the benchmark rate of return applicable to rate filings made from August 1 through October 31, 1985 is 13.96 percent. The attached appendix provides the underlying data on dividends and market prices supporting this update.

In consideration of the foregoing, the Commission amends Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below, effective August 1, 1985.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a-825r (1982); Department of Energy Organization Act 42 U.S.C. 7101-7352 (1982).

2. The "Table of Quarterly Benchmark Rates of Return" of § 37.9(d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) * * *

Benchmark applicability period (i)	First adjustment factor (a)	Second adjustment factor (b)	Current dividend yield (y_c)	Cost of common equity (k_c)	Benchmark rate of return
7/1/85 to 7/31/85	1.02	4.36	9.90	14.46	14.46
8/1/85 to 10/31/85	1.02	4.36	9.08	13.62	13.96
11/1/85 to 1/31/86					

Appendix

Exhibit No. and Title

1—Initial Sample of Utilities
2—Utilities Excluded From the Sample for the Indicated Quarter Due to Either Zero Dividends or a Cut in Dividends for this Quarter or the Prior Three Quarters
3—Quarterly Dividend Yields for the Indicated Quarter for Utilities Retained in the Sample

Source of data: Standard and Poor's Compustat Services Inc., Utility COMPUSTAT® II Quarterly Data Base.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES

Utility	Ticker symbol
Allegheny Power System	AYP
American Electric Power	AEP
Atlantic City Electric	ATE
AZP Group Inc	AZP
Baltimore Gas & Electric	BGE
Black Hills Power & Light Co	BHP
Boston Edison Co	BSE
Carolina Power & Light	CPL
Central & South West Corp	CSR
Central Hudson Gas & Elec	CNH
Central Ill Public Service	CIP
Central Louisiana Electric	CNL
Central Maine Power Co	CTP
Central Vermont Pub Serv	CV
Citicorp Inc	CER
Cincinnati Gas & Electric	CIN
Cleveland Electric Illum	CVX
Commonwealth Edison	CWE
Commonwealth Energy System	CES
Consolidated Edison of NY	ED
Consumers Power Co	CMS
Dayton Power & Light	DPL
Delmarva Power & Light	DEW
Detroit Edison Co	DTE
Dominion Resources Inc-VA	D
Duke Power Co	DUK
Duquesne Light Co	DQU

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Electric Light & Pwr	IEL
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
Ipalco Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
Nevada Power Co	NVP
New England Electric System	NES
New York State Elect & Gas	NGE
Newport Electric Corp	NPT
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power-MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
Pacificorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Portland General Electric Co	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR

[1] For a more detailed explanation of the method for determining the quarterly updates, see Generic Determination of Rate of Return on Common Equity for Public Utilities, 50 FR 21,802 (May 29, 1985) [Docket No. RM84-15-000] [Final Rule] [Order No. 420] [issued May 20, 1985].

[2] One utility in the sample, Missouri Public Service Co. changed its name to Utilicorp United Inc. on May 2, 1985.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Public Service Co of Ind	PIN
Public Service Co of N H	PNH
Public Service Co of N Mex	PNM
Public Service Elec & Gas	PEG
Puget Sound Power & Light	PSD
Rochester Gas & Electric	RGS
San Diego Gas & Electric	SDO
Savannah Elec & Power	SAV
Scana Corp	SCG
Sierra Pacific Resources	SRP
Southern Calif Edison Co	SCE
Southern Co	SO
Southern Indiana Gas & Elec	SIG
St Joseph Light & Power	SAJ

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Teco Energy Inc	TE
Texas Utilities Co	TXU
TNP Enterprises Inc	TNP
Toledo Edison Co	TED
Tucson Electric Power Co	TEP
Union Electric Co	UEP
United Illuminating Co	UIL
Utah Power & Light	UTP
Utilicorp United Inc	UCU
Washington Water Power	WWP
Wisconsin Electric Power	WPC
Wisconsin Power & Light	WPL
Wisconsin Rublic Service	WPS

EXHIBIT 2.—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year—85 Quarter—2]

Ticker symbol	Utility
CTP	Central Maine Power Co.
FGE	Fitchburg Gas & Elec Light
GPU	General Public Utilities.
LIL	Long Island Lighting.
MAP	Maine Public Service.
MTP	Montana Power Co.
PNH	Public Service Co of NH.
N=7	

EXHIBIT 3.—QUARTERLY DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year—85 Quarter—2]

Ticker symbol	Price, 1st month of qrtr-high	Price, 1st month of qrtr-low	Price, 2nd month of qrtr-high	Price, 2nd month of qrtr-low	Price, 3rd month of qrtr-high	Price, 3rd month of qrtr-low	Dividends: Annual rate	Quarterly dividend yield
AEP	21.875	21.250	23.000	21.000	24.125	22.750	2.260	10.119
ATE	27.375	24.750	28.750	26.500	29.750	28.000	2.580	9.375
AYP	31.875	30.750	33.375	31.000	34.375	32.625	2.700	8.351
AZP	24.875	22.250	25.250	22.500	28.125	25.000	2.720	11.027
BGE	43.250	40.250	46.000	42.250	46.625	44.375	3.400	7.764
BHP	32.875	29.500	33.875	30.125	33.875	32.250	1.920	5.984
BSE	39.750	37.250	40.750	38.000	43.750	40.000	3.240	8.117
CER	25.000	23.500	26.500	24.250	27.000	24.500	2.220	8.836
CES	25.125	23.750	26.875	24.125	29.625	26.250	2.320	8.937
CIN	15.875	15.000	15.875	14.750	18.500	15.000	2.160	13.642
CIP	19.500	18.250	19.750	18.000	20.750	19.125	1.640	8.529
CMS	7.000	6.125	7.000	6.500	8.375	6.750	0.400	5.749
CNH	26.750	24.500	28.375	25.375	30.500	27.625	2.840	10.446
CNL	25.750	23.875	25.875	24.000	27.375	25.625	2.080	8.184
CPL	28.375	26.375	29.375	26.750	30.375	27.875	2.600	9.224
CSR	24.750	22.625	25.000	23.125	26.125	24.500	2.020	8.294
CV	19.000	17.250	18.500	17.000	20.625	18.500	1.900	10.282
CVX	21.375	20.125	22.250	20.000	23.375	21.000	2.520	11.801
CWE	30.375	28.250	31.125	28.125	31.875	30.000	3.000	10.014
D	30.750	29.125	32.750	29.875	33.625	31.000	2.720	8.721
DEW	24.750	22.875	25.500	24.125	26.500	25.125	1.920	7.738
DPL	17.000	15.625	18.000	16.250	20.625	17.875	2.000	11.388
DQU	16.250	15.500	17.000	15.625	16.875	16.125	2.060	12.693
DTE	17.000	16.250	17.250	16.000	17.750	16.500	1.680	10.005
DUK	33.250	32.000	34.000	32.125	35.875	33.000	2.480	7.431
ED	33.625	31.750	35.500	32.000	37.750	35.625	2.400	6.982
EDE	20.375	19.625	22.000	20.125	22.125	20.750	1.760	8.448
EUA	20.375	18.375	21.500	18.375	23.125	19.875	2.060	10.162
FPC	27.250	25.375	28.750	26.375	28.500	27.375	2.160	7.921
FPL	24.625	23.125	25.500	23.375	26.125	24.375	1.960	7.993
GMP	17.250	15.500	19.250	16.750	19.875	18.375	1.720	9.645
GSU	15.125	13.750	15.125	13.250	16.000	14.375	1.640	11.230
HE	22.375	21.000	23.750	21.000	24.250	22.125	1.640	7.316
HOU	25.750	23.375	28.000	24.875	26.625	26.875	2.640	10.057
IDA	21.563	20.500	21.625	20.625	23.625	20.625	1.640	7.854
IEL	20.000	18.375	21.000	19.375	21.750	20.250	1.900	9.441
IOR	32.750	30.875	35.375	32.500	37.875	35.000	3.080	9.042
IPC	25.625	23.750	26.625	23.750	27.250	25.125	2.640	10.412
IPL	36.875	33.875	37.250	35.375	37.375	35.875	3.040	8.420
IPW	20.500	19.375	20.875	19.675	22.375	20.125	1.900	9.259
IWG	30.875	29.250	31.500	29.125	33.000	30.625	2.740	8.917
KAN	37.250	34.375	39.750	36.375	39.375	38.500	2.960	7.871
KGE	19.625	16.875	18.875	16.750	18.000	17.000	2.380	13.218
KLT	24.000	21.250	24.125	19.875	23.375	21.250	2.360	10.577
KU	27.000	25.875	28.000	26.375	29.250	26.875	2.440	8.961
LOU	29.250	28.000	30.000	28.375	32.750	29.625	2.440	8.225
MPL	34.375	32.500	36.750	33.500	39.000	35.250	2.760	7.834
MSU	14.250	12.875	14.500	12.875	15.250	13.750	1.780	12.790
MWE	29.375	27.250	30.250	27.500	31.500	29.500	2.760	9.443
NES	40.875	38.750	43.750	40.000	44.750	42.500	3.600	8.618
NGE	24.750	23.125	26.750	23.250	27.500	25.750	2.440	9.687
NI	12.500	11.625	12.000	10.750	12.500	11.000	1.560	13.300
NMK	18.500	17.625	20.375	18.000	20.375	19.375	2.080	10.923
NPT	14.875	14.000	15.500	14.625	17.500	14.750	1.500	9.863
NSP	40.625	43.125	47.875	44.625	50.750	47.250	3.520	7.536
NU	16.000	15.000	17.875	15.375	17.250	16.250	1.580	9.698
NVP	29.875	28.125	29.875	28.375	32.250	29.750	2.760	9.290
OEC	14.875	14.000	15.625	14.000	15.500	14.625	1.880	12.728
OGE	24.375	23.000	24.250	23.000	26.375	23.875	2.000	8.283
ORU	25.875	24.500	26.500	24.875	27.875	26.125	2.040	7.859
PCG	18.500	17.375	19.875	17.875	20.250	18.500	1.840	9.824
PE	16.000	15.125	16.000	13.875	16.125	14.375	2.200	14.426
PEG	29.125	27.250	31.375	28.250	32.500	30.125	2.840	9.540
PGN	19.000	17.875	21.125	18.750	21.875	20.375	1.900	9.580

EXHIBIT 3.—QUARTERLY DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year—85 Quarter—2]

Ticker symbol	Price, 1st month of qrtr-high	Price, 1st month of qrtr-low	Price, 2nd month of qrtr-high	Price, 2nd month of qrtr-low	Price, 3rd month of qrtr-high	Price, 3rd month of qrtr-low	Dividends: Annual rate	Quarterly dividend yield
PIN	8.125	7.500	7.875	7.250	8.500	7.500	1.000	12.834
PNM	27.625	25.625	27.250	25.000	28.250	26.625	2.880	10.775
POM	29.875	28.250	32.250	29.125	33.375	30.875	2.160	7.053
PPL	27.750	23.875	26.750	24.000	27.250	25.875	2.560	9.878
PPW	28.625	27.375	29.250	27.625	30.625	28.750	2.320	8.081
PSD	14.875	13.875	15.000	13.875	15.625	14.625	1.760	12.017
PSR	21.500	20.125	23.000	21.000	24.250	22.250	2.000	9.082
RGS	21.875	20.250	23.875	20.625	24.375	22.750	2.200	9.869
SAJ	22.875	21.125	22.000	21.000	22.375	21.125	1.720	7.908
SAV	20.625	19.125	22.250	19.625	22.250	20.625	1.600	7.711
SCE	25.375	23.625	27.125	24.125	27.875	26.375	2.160	8.388
SCG	26.000	23.875	27.875	25.000	28.000	26.625	2.160	8.235
SDO	26.500	23.875	27.250	25.125	28.375	26.750	2.240	8.513
SIG	25.250	23.000	26.375	24.750	26.750	25.000	1.800	7.146
SO	20.750	19.500	21.125	19.500	22.250	20.750	1.920	9.300
SRP	17.125	15.750	18.250	16.750	19.375	17.750	1.600	9.143
TE	32.500	30.125	33.125	30.375	34.875	32.500	2.360	7.318
TED	18.625	17.250	18.375	17.250	21.125	17.750	2.520	13.699
TEP	40.250	38.500	41.375	38.250	41.375	40.000	3.000	7.508
TNP	17.375	15.500	19.000	16.625	20.000	17.000	1.250	7.109
TXU	29.500	27.750	29.500	27.500	31.125	27.750	2.520	8.734
UCU	21.814	19.485	24.375	22.059	25.000	22.875	1.320	5.840
UEP	18.625	17.125	19.125	17.500	19.375	18.000	1.720	9.403
UIL	16.500	15.250	17.125	15.000	19.000	16.625	2.000	12.060
UTP	24.125	22.750	25.875	23.500	26.000	24.500	2.320	9.486
WPC	34.625	32.500	38.375	33.625	38.250	36.500	2.480	6.957
WPL	35.250	32.500	36.500	33.625	36.375	35.375	2.640	7.556
WPS	34.375	32.500	37.875	33.500	37.375	35.500	2.560	7.275
WWP	21.500	20.500	23.000	20.750	24.250	22.125	2.480	11.282
N—93								

[FR Doc. 85-17289 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 84F-0194]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glyoxal-urea-formaldehyde condensate as a component of paper and paperboard intended for use in contact with dry food. This action responds to a petition filed by American Cyanamid Co.

DATES: Effective July 22, 1985; objections by August 21, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary J. Stephens, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 20, 1984 (49 FR 25308), FDA announced that a food additive petition (FAP 4B3802) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of glyoxal-urea-formaldehyde condensate as a component of paper and paperboard intended for use in contact with dry food.

FDA is aware that some studies show that formaldehyde has caused tumors in rats at the site of intranasal administration. No study exists, however, that suggests that formaldehyde is tumorigenic when ingested by animals. In fact, there are studies in the literature in which a precursor to formaldehyde (hexamethylenetetramine) did not cause tumors when ingested by mice and rats. Because hexamethylenetetramine is broken down in the stomach to formaldehyde, these studies directly tested whether orally administered formaldehyde is carcinogenic. For the reasons discussed more fully in the agency's denial of requests for a hearing on aspartame (49 FR 6672; February 22, 1984), the inhalation study is not appropriate for use in evaluating the safety of this resin because it has been demonstrated that formaldehyde is not a systemic carcinogen.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 21, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on

the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for Part 176 is revised to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Glyoxal-urea-formaldehyde condensate (CAS Reg. No. 27013-01-0) formed by reaction in the molar ratio of approximately 47:33:15, respectively. The reaction product has a number average molecular weight of 278 ± 14 as determined by a suitable method.	For use as an insolubilizer for starch in coatings.
* * * * *	

Effective date. This regulation is effective July 22, 1985.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 8, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-17282 Filed 7-19-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 179

[Docket No. 84F-0230]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to permit gamma radiation treatment of pork to control *Trichinella spiralis*. This action responds to a food additive petition filed by Radiation Technology, Inc.

DATES: Effective July 22, 1985; objections by August 21, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION:

Introduction

In a notice published in the **Federal Register** of July 23, 1984 (49 FR 29682), FDA announced that a petition (FAP 4M3789) had been filed by Radiation Technology, Inc., Lake Denmark Rd., Rockaway, NJ 07866, requesting amendment of the food additive regulations to provide for the safe use of a cobalt 60 or cesium 137 source of gamma radiation to control trichinae and other helminths in pork.

Background

In its proposal published in the **Federal Register** of February 14, 1984, to permit the use of low doses of food irradiation for certain purposes, FDA explained that the Bureau of Foods' Irradiated Food Committee had concluded that "* * * food irradiated at doses not exceeding 1 kiloGray (kGy) (100 kilorads (krad)) is safe for human consumption" (49 FR 5714, 5715). FDA also stated that it believes that the conclusions of this committee are valid because, "* * * at doses below 1 kGy (100 krad), the difference between an irradiated food and a comparable nonirradiated food is so small as to make the foods indistinguishable with respect to safety" (49 FR at 5716).

Nevertheless, in evaluating this petition, the agency considered whether data from a U.S. Department of Agriculture-sponsored study, conducted by Raltech Scientific Services, raised sufficient concern to preclude issuing this regulation. Citing this study, comments on the February 14, 1984 proposed regulation claimed that mice fed irradiated chicken were found to have a "statistically significant" increase in the incidence of testicular tumors, and argued that regulations permitting food irradiation should, therefore, not issue. The Center for Food Safety and Applied Nutrition (the Center) evaluated the relevant histopathology data from that study and did not find any treatment-related effect that is either biologically or statistically significant. The National Toxicology Program's (NTP) Board of Scientific Counselors conducted, at FDA's request, a peer review of the relevant histopathology data, including an open meeting on March 28, 1985. In its final summary minutes dated May 16, 1985, and submitted to FDA, NTP's Board of Scientific Counselors concluded that the available data did not allow the study to be categorized as demonstrating a carcinogenic response.

During the course of its evaluation, FDA requested comment from the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) regarding whether this regulation would pose any problems with that agency's enforcement of the Federal Meat Inspection Act. FSIS requested that the regulation be limited to control of the parasite *Trichinella spiralis* rather than for control of trichinae and other helminths because FSIS has no information at this time to assure that gamma radiation at this dose level can control helminths other than *Trichinella spiralis*.

In view of USDA's comments, FDA has concluded that this final regulation should be limited to the use of gamma radiation for the control of *Trichinella spiralis* in pork, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in

reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Mangement Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 21, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food packaging, Irradiation of foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

1. The authority citation for 21 CFR Part 179 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10.

2. In § 179.22(b) in the table by alphabetically inserting a new item to read as follows:

§ 179.22 Gamma radiation for the treatment of food.

* * * * *

(b) * * *

Food for irradiation	Limitations	Use
* *	* *	*
Pork carcasses or fresh, non-heat-processed cuts of pork carcasses.	Absorbed dose: Minimum dose 0.3 kiloGray (30 kilorads); Maximum dose not to exceed 1 kiloGray (100 kilorads).	Control of *Trichinella spiralis*.
* *	* *	*

* * * * *

Dated: July 16, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17280 Filed 7–17–85; 10:39 am]

BILLING CODE 4160–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–012]

Tennessee State Plan; Approval of Revised Compliance Staffing Benchmarks and Final Approval Determination

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of Revised Compliance Staffing Benchmarks and Final State Plan Approval.

SUMMARY: This document amends Subpart P of 29 CFR Part 1952 to reflect the Assistant Secretary's decision approving revised compliance staffing requirements and granting final approval to the Tennessee State plan. As a result of this affirmative determination under Section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Tennessee plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over private sector maritime and railroad employment (where not regulated by another Federal agency), employment on military bases, and employment at Tennessee Valley Authority facilities. Federal jurisdiction remains in effect with respect to Federal government employers and employees.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted.

A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in 29 CFR 1902.3 and 1902.4 if it includes satisfactory assurances by the State that it will take the necessary "development steps" to meet the criteria within a 3-year period 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of

"certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federal enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

An additional requirement for final approval consideration is that a State must meet the compliance staffing levels, or benchmarks, for safety and health compliance officers established by OSHA for that State. This requirement stems from a 1978 Court Order by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, that directed the Assistant Secretary to calculate for each State plan state the number of enforcement personnel needed to assure a "fully effective" enforcement program.

History of the Tennessee Plan and its Compliance Staffing Benchmarks

Tennessee Plan

On January 31, 1973, Tennessee submitted an occupational safety and health plan in accordance with section 18(b) of the Act and 29 CFR Part 1902, Subpart C. On March 2, 1973, a notice was published in the **Federal Register** (38 FR 5702) concerning submission of the plan, announcing that initial Federal approval was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. Comments were received from the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO). In response to these comments, as well as to OSHA's review of the plan submission, the State made changes in its plan which were discussed in the notice of initial approval. On July 5, 1973, the Assistant Secretary published a notice granting initial approval of the Tennessee plan as a developmental plan under section 18(b) of the Act (38 FR 17838). The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Tennessee Department of Labor, which is headed by a Commissioner, is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Tennessee Division of Occupational Safety and Health. The plan provides for the adoption by Tennessee of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards. The plan requires employers to furnish employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with all standards and regulations applicable to their conduct. The plan contains provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by the Tennessee Occupational Safety and Health Review Commission. Decisions of the Review Commission may be appealed to the Court of Appeals of Tennessee.

The notice of initial approval noted a few distinctions between the Federal and Tennessee programs. The State plan does not cover safety and health in private sector maritime employment or at Tennessee Valley Authority facilities, employment on military bases, and as a result of a State Supreme Court decision does not cover those aspects of railroad employment regulated under the Federal OSHA program. Under the Tennessee law, employees have the right to contest the terms and conditions of citations as well as abatement dates whereas Federally employees may only object to the established abatement periods. The law also provides for issuance of stop work orders where cases of imminent danger are encountered.

The Assistant Secretary's initial approval of the Tennessee developmental plan, a general description of the plan, a schedule of required developmental steps and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart P; 38 FR 17838 (July 5, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three-year period ending July 5, 1976. These "developmental steps" included: amendments to the Tennessee Occupational Safety and Health Act; promulgation of State occupational safety and health standards and program regulations; and development of a public employee program. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, legislative amendments, management information system, merit staffing system, regulations for inspections, citations and proposed penalties, recordkeeping and reporting regulations, and a safety and health poster for private employers and local government employers choosing to be treated as private employers and a poster for State and all other local government employers.

These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Tennessee subpart of 29 CFR Part 1952 was amended to reflect each of these approval determinations (see 29 CFR 1952.224).

During 1974, OSHA entered into an operational status agreement with the State of Tennessee. A **Federal Register** notice was published on December 23, 1974 (39 FR 41200), announcing the signing of the agreement. (The agreement was subsequently amended,

41 FR 34252, August 13, 1976.) Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Tennessee plan.

On May 16, 1978, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Tennessee had satisfactorily completed all developmental steps (43 FR 20980). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with Section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Tennessee Benchmarks

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, to calculate for each State plan state the number of enforcement personnel (compliance staffing benchmarks) needed to assure a "fully effective" enforcement program. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Tennessee to allocate 52 safety compliance officers and 79 industrial hygienists to conduct inspections under the plan.

In September 1984 the Tennessee State designee in conjunction with OSHA completed a review of the components and requirements of the 1980 compliance staffing benchmarks established for Tennessee. Pursuant to an initiative begun in August 1983 by the State plan designees as a group with OSHA, and in accord with the formulas and general principles established by that group for individual State revision of the benchmarks, Tennessee reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. This reassessment resulted in a proposal to OSHA, contained in comprehensive documents of revised compliance staffing benchmarks, of 22 safety and 14 health compliance officers.

History of the Present Proceedings

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On January 16, 1985, the Occupational Safety and Health Administration published notice of its proposal to approve the revised compliance staffing benchmarks for Tennessee and the resultant eligibility of the Tennessee State plan for determination under section 18(e) of the Act as to whether final approval of the plan should be granted (50 FR 2477). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the proposed revised State Staffing benchmarks.

The January 16 **Federal Register** notice set forth a general description of the Tennessee plan and summarized the results of Federal OSHA monitoring of State operations during the period from October 1982 through March 1984. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Tennessee operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the October 1982—March 1984 Evaluation Report of the Tennessee plan ("18(e) Evaluation Report"), which was extensively summarized in the January 16 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 4–6). Copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record.

The January 16 **Federal Register** also contained notice of the Occupational Safety and Health Administration proposal to approve revised compliance staffing benchmarks for Tennessee. A detailed description of the methodology and State-specific information used to develop the revised compliance staffing benchmarks for Tennessee was included in the notice. In addition OSHA submitted, as a part of the record (Docket No. T–012), Tennessee's detailed submission containing both a narrative explanation and supporting data. A summary of the benchmark revision process was likewise set forth in a separate **Federal Register** notice on January 16, 1985, concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (No. T–018) and contained background information relevant to the benchmark issue in general and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process and 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region IV Office in Atlanta, Georgia, and the Tennessee Department of Labor in Nashville. Summaries of the January 16 proposal, with an invitation for public comments were published in Tennessee on January 23, and 24, 1985. (Ex. 6).

The January 16 proposal invited interested persons to submit, by February 20 (subsequently extended to March 22, 1985, 50 FR 6956, in response to a request from James N. Ellenberger, Department of Occupational Safety, Health and Social Security, AFL–CIO) written comments and views regarding the Tennessee plan, whether the proposed revised compliance staffing benchmarks should be approved, and whether the final approval should be granted. Opportunity to request an informal public hearing on the issue of final approval was likewise provided. Seventy comments were received in response to these notices. Two were received from organized labor, one from a private citizen in Tennessee, one from a safety group, three from State and local government entities and sixty-three from private employers. No requests for an informal hearing were received.

Summary and Evaluation of Comments Received

During this proposed rulemaking OSHA has encouraged interested members of the public to provide information and views regarding operations under the Tennessee plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration and regarding the proposed revised compliance staffing benchmarks for Tennessee.

In response to the January 16 **Federal Register** notice, OSHA received comments from the Tennessee Manufacturers Association, Ernest C. Blankenship, Vice President (Ex. 3–2); Worth Sports Company, John L. Parish (Ex. 3–3); American Can Company, Frank B. Veal, Human Resources (Ex. 3–4); American Can Company, Gaylord R.

Friedlein, Plant Manager (Ex. 3–5); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–6); Genesco Inc., Ralph E. Mosely, Director, Employee and Environmental Safety (Ex. 3–7); General Electric Company, J. A. Lucier, Manager Safety (Ex. 3–8); Eaton Corporation, Robert J. Rooke, Plant Manager (Ex. 3–9); Aluminum Company of America, Bertram D. Dinman, Vice President, Health and Safety (Ex. 3–10); Rogers Group, Inc., Barbara Phillips, Corporate Risk Manager (Ex. 3–11); Allied Automotive, Cathy W. Hanley, Health and Safety Administrator, Bendix Aftermarket Brake Division (Ex. 3–12); Bradley County Office of Planning and Engineering, Keith Holloway, Safety Director (Ex. 3–13) Dixie Yarns, Inc., Bryan Gibson, Vice President, Industrial Relations (Ex. 3–14); Burroughs-Ross-Colville Company, Kenneth Casteel, Vice President and Secretary (Ex. 3–15); TRW Chassis Components Group, Gary W. Coonard, Plant Manager (Ex. 3–16); Electric Power Board of Chattanooga, Jack H. Wade, Safety Director (Ex. 3–17); McMinnville Garment Company, Inc., Jim Risinger, Plant Manager (Ex. 3–18); ASARCO, V.L. Hendrix, Safety Engineer (Ex. 3–19); United States Pipe and Foundry Company, B. M. Hendrix, Sr., Safety Director, Assistant Personnel Director (Ex. 3–20); Washington Industries, Riley Amacher, Vice President (Ex. 3–21); State of Tennessee Department of Transportation, Dave Goodwin, Regional Safety Coordinator (Ex. 3–22); Linden Apparel Corporation, Charles W. Harper, Plant Superintendent (Ex. 3–23); Occidental Chemical Corporation, Clay W. Buttrey, Plant Manager (Ex. 3–24); Blue Ridge Shirt Manufacturing Company, Inc., Jerry Stevenson, Manager (Ex. 3–25); The Turner Manufacturing Company, Robert DePriest, Plant Manager (Ex. 3–26); TRW General Components Group, Myra Johnson, Human Relations Supervisor (Ex. 3–27); APCOM, Inc., Gilbert Wilson, Safety Director (Ex. 3–28); Tennessee Eastman Company, D. Lynn Johnson, Manager, Government Relations (Ex. 3–29); Milan Shirt Manufacturing Company, Charles Daugherty, Plant Manager (Ex. 3–30); Dixie Manufacturing Company, Inc., M. I. Hedrick, Plant Manager (Ex. 3–31); E & W of Monterey, Inc., Francis Powell, Plant Manager (Ex. 3–32); Dee Cee Apparel, Inc., Michael S. Joiner, Plant Manager (Ex. 3–33); Heckethorn Manufacturing Company, W. R. Heckethorn, President (Ex. 3–34); Plast-Line, Inc., Mark A. McKinney, Assistant Manager, Industrial Relations (Ex. 3–35); Tennessee Valley Electric Cooperative, R. C. Hughes, Chief Engineer (Ex. 3–36); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–37); Colonial Rubber Works, Inc., T. Carlton Holt, Chairman (Ex. 3–38); Washington Manufacturing Company, McCauley Gray, Risk Manager (Ex. 3–39); Dyersburg Fabrics, Inc., R. E. Donner, Chairman of the Board (Ex. 3–40); Aluminum Company of America, William M. Cochran, Safety Manager, Tennessee Operations (Ex. 3–41); Jack Daniel Distillery, Joe Rossman, Human Resources Manager (Ex. 3–42); TNS, Inc., Frank Ward, Vice President/Plant Manager (Ex. 3–43); United Technologies Carrier, William E. Seitz, Safety/Industrial Hygiene Supervisor (Ex. 3–44); Nashville Electric Service, Clyde T. Brake, Field Supervisor (Ex. 3–45); General Shale Products Corporation, Kenneth A. Parham, Manager of Health and Safety (Ex. 3–46); Rohm and Haas Tennessee Incorporated, R. R. Van Sickle, President (Ex. 3–47); Middle Tennessee State University, Baxter Cook, P. E., Safety Officer (Ex. 3–48); Spaulding Fibre Company, Inc., William R. Davis, Jr., Project/Safety Engineer (Ex. 3–49); McDowell Enterprises, Inc., Nashville, Safety Director, Co-Chairman (Ex. 3–50); TRW General Components Group, John H. Smith, Plant Manager (Ex. 3–51); Opryland, Jesse Caskey, Safety Manager (Ex. 3–52); Samsonite Furniture, William L. Fox, General Manager (Ex. 3–53); John and Carroll Croes (Ex. 3–54); Tennessee River Pulp & Paper Company, B. Scott Wells, Safety Coordinator (Ex. 3–55); Vulcan Corporation, W. C. Williams, Personnel Manager (Ex. 3–56); Cookeville Electric Department, W. R. Holland, Safety Director, City of Cookeville (Ex. 3–57); Nuturn Corporation, Rita M. Grisham, Vice President (Ex. 3–58); The City of Knoxville, Tennessee, Paul W. Dunn, Fire Safety Officer (Ex. 3–59); W. R. Grace and Company, N. E. Picquet, General Manager (Ex. 3–60); Nuturn Corporation, James W. Murray, Vice President and General Manager (Ex. 3–61); DeSoto, Inc., Jane G. Grider, Delegate Tennessee Safety Congress (Ex. 3–62); Polysar Latex, David Darnell, Safety Coordinator (Ex. 3–63); E. I. du Pont de Nemours and Company, E. H. Bennett, Plant Manager (Ex. 3–64); TRW General Component Group, Douglas P. Thurley, Plant Manager (Ex. 3–65); American Limestone Company, W. Hoyl Gill, President (Ex. 3–66); Nuturn Corporation, Russell L. Armer, Vice President and General Manager (Ex. 3–67); Tennessee Safety Congress, Dave White, Co-Chairman (Ex. 3–68); Tennessee Contractors Association, Inc., L. D. Pennington, President (Ex. 3–71); American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Margaret Seminario, Associate Director, Department of Occupational Safety, Health and Social Security (Ex. 69); and United Steelworkers of America, Mary Win O'Brien, Assistant General Counsel (Ex. 3–70). Tennessee Department of Labor, Division of Occupational Safety and Health, Director Robert Taylor responded to the AFL–CIO comments (Ex. 3–72).

Sixty-eight comments expressed general support for final approval on the grounds of State competence, responsiveness, and specific knowledge of local conditions. Several of these comments indicated that the State has established an outstanding safety and health program which far exceeds the National effort without adversarial relations with local industries, and that a climate of working together has gone far to stop costly accidents and to protect workers in Tennessee. Comments further expressed preference for State enforcement rather than Federal, because State inspectors are better able to deal with Tennessee specific concerns. The comments praise the State's effectiveness in reducing workplace injuries and illnesses and competency of Tennessee officials.

The United Steelworkers of America, AFL–CIO, commented extensively on the benchmark revision process, but did not specifically address Tennessee's revision.

The AFL–CIO indicated opposition to approval of the proposed revised benchmarks for Tennessee and therefore opposed the granting of final State plan approval. Some of the AFL–CIO's comments were directed toward OSHA's system for monitoring and evaluation of State plans and the requirements that a State must meet to be eligible for final approval.

The evaluation of the Tennessee plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program.

The AFL–CIO expressed concern that Federal OSHA's monitoring system with its reliance on statistical indicators fails to accurately reflect the overall conduct of the State program and tries to limit

those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative conclusion. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO also commented on specific State performance issues. These comments are addressed in the appropriate sections of the Findings and Conclusions portion of this notice.

Comments by the AFL–CIO and the Steelworkers addressing the proposed revised benchmarks for Tennessee reflected for the most part the commenters' concerns regarding the benchmark revision process generally. Thus, the comments question whether the benchmark formula as applied in Tennessee should have assumed a need for routine, general-schedule inspections at all covered workplaces; whether the proposed staffing levels will be sufficient to respond to new hazards or future standards; and question the appropriateness of the inclusion or exclusion of various industry groups in Tennessee's general inspection universe unless corresponding industries are treated identically in other States. As was specifically discussed in the Federal Register notice of June 13, 1985, dealing with approval of revised benchmarks for the Kentucky State plan (50 FR 24884), the concept of universal general schedule coverage has been replaced by more sophisticated targeting systems which deploy enforcement resources where they are most needed, and universal coverage is as inappropriate a concept for benchmarks formulation as it is for inspection scheduling. The possible effect of new hazards or future standards cannot be ascertained with any precision, and in any case both OSHA and the States have generally been able to effectively enforce new standards with no additions to staff for that purpose. As to the need for "uniformity," OSHA believes the greatest strength of the current formula is that it takes into account actual State program needs as shown by State data and experience. OSHA has found that the formula used to derive benchmarks for Tennessee, and other States involved in the 1984 revision process employs the best information and techniques currently available; properly takes into account each of the factors set forth in the District Court Order in *AFL–CIO* v. *Marshall;* and is an appropriate means of establishing fully effective benchmarks which provide proper program coverage in the context of each State's specific program needs. A more detailed discussion of the general concerns raised by the AFL–CIO and the Steelworkers can be found in the June 13, 1985, Federal Register notice on Kentucky.

The comments filed by the AFL–CIO also addressed several specific issues relating to the calculation of the benchmarks for Tennessee. The union commented that the State excluded all small and many large establishments from its general schedule safety universe, even when industry injury rates exceeded the average State rate. The State responded that it had added a number of high hazard non-manufacturing establishments to its initial general schedule inspection universe. In a review of State inspection data for a five-year period, the State determined that there were 79 non-manufacturing establishments with histories of high injury rates. That review also showed that the State had no establishments with ten or fewer employees whose lost workday case rate was higher than the overall State rate. The State further responded that industries not included in the initial universe are still subject to employee complaint inspections. In addition, the State frequently reviews survey data from the Tennessee Department of Research and Statistics for information regarding high hazard industries within the State. It should also be noted that assumptions made in determining a State's theoretical workload for benchmark purposes are not binding on the State in scheduling specific employers for enforcement visits. A State's general schedule inspection universe is not in itself a targeting system but rather a method for determining a reasonable estimate of workplaces with industrial exposures likely to produce hazards.

In a similar comment, the AFL–CIO also criticized the State for not including all small and many large establishments in industries with serious health hazards in its general schedule inspection universe for health. Based on its review of health inspections during the past 10 years the State has added those SIC's where serious air contaminant and/or noise hazards have been found. Thus the State added 52 small and 159 larger establishments to its health inspection universe. Other establishments not included in the initial inspection universe continue to be subject to complaint and accident inspections.

The AFL–CIO asserted that Tennessee's allocation of enforcement resources to health inspections in the public sector and the construction industry, which the State based on past experience, is inadequate. The union argued that these industries have not been adequately covered in the past but provides no data in support of that conclusion. Tennessee responded that the State is very active in asbestos-related enforcement activity in the construction industry. With regard to the public sector, Tennessee responded that State inspection experience has shown that there are few health hazards found in the public sector. Nonetheless, the benchmark formula allocates one full-time health compliance officer to the public sector in Tennessee. The State does intend to monitor potential health problems. In addition, health hazards in the construction industry (and, to a lesser extent, the public sector) are frequently cited by cross-trained safety compliance officers or as the result of referral or health complaint inspections.

Finally, both the AFL–CIO and the Steelworkers allege that the number of enforcement personnel now found appropriate for a fully effective program in Tennessee and other States is lower than the staffing levels allocated by the States in 1980 or projected in the benchmarks issued by OSHA during its first effort to implement the *AFL–CIO* v. *Marshall* Court Order in 1980. (It should be pointed out that Tennessee's allocated compliance staffing is higher now than it was in 1980.) However, the District Court Order on which the revision process has been based does not assume or require that revised benchmarks must provide a comparative increase over past levels. The adequacy of the revised benchmarks cannot be determined by whether they are greater or smaller than the 1980 benchmarks or earlier enforcement levels. Such direct numerical comparison of staffing levels is no more valid than was the direct comparison of State to Federal staffing levels under the "at least as effective" test rejected by the Court of Appeals in 1978. The objective assigned to OSHA by the Court of Appeals and District Court order was, in sum, to measure the workload assumed by each State under its plan and to determine, using the best available information and techniques, but avoiding direct numerical comparisons, the staffing levels needed for fully effective coverage. This is precisely what has been done in the present revision process. The review of each State's illness and injury data, industrial mix, demographics and enforcement history has been for more detailed than was the case when benchmarks were first issued in 1980. As

discussed above, the concept of universal routine inspections has been replaced by far more sophisticated targeting, devoting resources to the relative minority of industries where the majority of enforcement-preventable injuries occur. These factors have resulted in the more realistic enforcement staffing requirements embodied in the revised benchmarks for Tennessee.

For these reasons, and in light of other comments by groups and individuals directly affected and knowledgeable about safety and health enforcement needs in Tennessee, OSHA believes application of the current benchmark formula for Tennessee has resulted in staffing levels which result in fully effective enforcement in the State of Tennessee.

Findings and Conclusions

Tennessee Benchmarks

As provided in the 1978 Court Order in *AFL-CIO* v. *Marshall*, Tennessee, in conjunction with OSHA, has undertaken to revise the compliance staffing benchmarks originally established in 1980 for Tennessee. OSHA has reviewed the State's proposed revised benchmarks and supporting documentation and carefully considered the public comments received with regard to this proposal, and determined that compliance staffing levels of 22 safety and 14 health compliance officers meet the requirements of the Court and provide staff sufficient to ensure a fully effective enforcement program.

Tennessee Final Approval

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Tennessee State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially data for the period of October 1982 through March 1984 and information presented in written submissions. Findings and conclusions in each of the areas of performance are as follows.

(1) Standards

Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2)(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Tennessee State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the January 16 notice, the Tennessee plan provides for the adoption of standards and amendments thereto which are identical to or at least as effective as Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Exs. 2–3 and 2–5), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State plan approval, a State program must be found to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in the "18(e) Evaluation Report" and summarized in the January 16, 1985 **Federal Register** notice, Tennessee has generally adopted standards which are identical to Federal standards. The State has recently adopted an identical Hazard Communication Standard, as well as enacted a Right-to-Know Act.

When a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. Tennessee likewise adopts standards interpretations, which are identical to Federal. OSHA's monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to standards have occurred in Tennessee.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1092.4 and 1902.37, OSHA finds the Tennessee program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) Variances

A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Tennessee State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the 18(e) Evaluation Report and the January 16 notice, one permanent variance was granted during the reporting period. The action on this request was in accordance with the State's procedures and the granted variance provided protection equivalent to that provided under the standard. No temporary variances were requested during the evaluation period.

Accordingly, OSHA finds that the Tennessee program effectively grants variances from its occupational safety and health standards.

(3) Enforcement

Section 18(c)(2) of the Act and § 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (§ 1902.3(d)(2)) and must have the legal authority for standards enforcement including compulsory process (§ 1902.4(c)(2)).

The Tennessee law (Tennessee Annotated Codes, Title 50, Chapter 3) and implementing regulations previously approved by OSHA establish employer

and employee compliance responsibility and contain legal authority for standards enforcement in terms virtually identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). The "18(e) Evaluation Report" data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1902.4(c)(2)(i)). As noted in the January 16, 1985 **Federal Register** notice Tennessee follows a policy of responding to all employee complaints by conducting inspections. Data contained in the 18(e) Evaluation Report indicates that 98.6% of the safety complaints and 96.4% of the health complaints resulted in inspections (Evaluation Report, page 14).

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplace while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). The 18(e) Evaluation Report indicates that 94.2% of State programmed safety and 74.6% of programmed health (general schedule) inspections during October 1982 through March 1984 were conducted in high-hazard industries. The lower percent of programmed health inspections resulted from the State utilizing a health high-hazard list comparable to the Federal, but applying a different high-hazard rating to establishments. Near the end of the reporting period, the State began using a hazard ranking system more comparable to the Federal. As a result of the change, an increase in programmed high-hazard health inspections was noted and was within the prescribed acceptable level.

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State procedures require compliance officers to provide this opportunity. During the evaluation period, 97.7% of initial inspections included either employee representatives on the walkaround or interviews with employees. OSHA has concluded that employee representation is properly provided in State inspections.

In addition, the State plan must provide that employee be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)), and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Tennessee requires that a poster, which was previously approved by OSHA [40 FR 36566] for employers in the private sector and for local government employers choosing to be treated as private employers and a separate poster (43 FR 20908) for State government and all other government employers, be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications, are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard. The Evaluation Report indicates posting violations were cited in 16 inspections. Federal OSHA's evaluation concluded that the State's performance is satisfactory.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Tennessee law and regulations provide for discrimination protection which is at least as effective as the Federal. The State investigated 12 discrimination complaints during the evaluation period. None of the complaints investigated were found to be meritorious. Average lapse time between receipt of a complaint and the notification to the complainant of the investigation results by the State was 110 days, which compared very favorably with Federal experience.

However, the Evaluation Report pointed out that Tennessee had two outstanding meritorious discrimination cases from several years ago which had never been litigated. This delay was caused by failure of the State Attorney General's Office to initiate litigation proceedings. The State Attorney General's Office has initiated litigation on one of the two outstanding cases and is in the process of settling the other. Additionally, TOSHA now has written assurance from the Attorney General's Office that it will pursue future litigation of discrimination cases more expeditiously.

The AFL-CIO in its written comments expressed concern that failure by the State Attorney General's office to initiate litigation in those discrimination complaints Tennessee finds meritorious results in a reluctance by the State to find more discrimination complaints meritorious, and that OSHA investigation and review is needed.

As noted above, the State Attorney General's office initiated litigation on one of the outstanding cases and is in the process of settling the other. The report indicates that Tennessee's OSHA performance with regard to timely investigation of discrimination complaints is at an acceptable level. Tennessee OSHA's written response to the AFL-CIO's comment further indicates the State Attorney General's office has reviewed its process for litigating discrimination complaints and has assured TOSHA that future cases will be pursued in a timely manner. Absent any evidence to the contrary, e.g., CASPA's regarding Tennessee's handling of discrimination complaints, OSHA's evaluation concludes that the State's performance is satisfactory.

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations, (29 CFR 1902.4(c)(2) (vii)) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The 18(e) Evaluation Report indicates that there were no imminent danger situations identified. No Complaints About State Program Administration (CASPA's) have been received concerning trade secrets during the reporting period.

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Title 50, Chapter 3 of the Tennessee Occupational Safety and

Health Act authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially identical to those in the Federal Act. In addition, Title 50, Chapter 4 of the Tennessee Administrative Inspection Warrant Act authorize the Commissioner to petition any court of record for an order to permit entry into such establishments that have refused entry for the purpose of inspection or investigation. The Tennessee law likewise prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. The 18(e) Evaluation Report shows that Tennessee received 12 denials of entry and warrants were obtained for all 12 refusals. The 18(e) Evaluation Report shows that 30 instances of advance notice procedures were used. The State's use of its procedures were proper.

The AFL-CIO in its written comments asserted that the length of time between denial of entry and application by the State for a warrant (75 days) is a serious problem, and that the result of such delays has the impact of providing advance notice contradictory to the Federal Act thereby limiting a truly effective enforcement program.

The evaluation report indicates that the primary cause for the delays in seeking warrants was a temporary administrative problem. The staff attorney's position, which includes the function of securing warrants, was vacant during the evaluation period, and this function has to be absorbed with other day-to-day activities. The State has now filled this position. The evaluation report concluded that once the warrants were granted the State was exceptionally timely in entering the establishments (4.3 days) and on an overall basis the State handles denials of entry in an acceptable manner. OSHA has not received any evidence to indicate that the delays in applying for warrants upon denials of entry has resulted in any negative effect on inspection findings. Since the primary cause of the delay was associated with a temporary administrative deficiency which has now been corrected, warrant applications should be handled in a timely manner. Therefore, Federal evaluation concluded that the State's performance is satisfactory.

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2)(x) and (xi)). The Tennessee plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), the issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)). Comparison of Federal and State data, as discussed in the 18(e) Evaluation Report shows that the State finds a comparable number of violations per initial inspection (1.6). Additionally, data showed State percentages of not-in-compliance programmed inspections were lower than Federal OSHA for safety (41.6%) and exceeded Federal OSHA in health (48%).

The AFL-CIO in its written comments asserted that Tennessee spends less time conducting safety inspections than Federal OSHA and, not surprisingly, classifies citations for violations of standards at a lower level than Federal OSHA.

The evaluation report indicates that the State finds a higher number of violations per inspection but does classify a lower number of violations as serious (12.5% safety 8.3% health). The report concluded that the lower percentage of serious violations cited resulted from a difference in interpretation of established procedures for classifying violations. As also indicated in the report, the State changed its interpretation to more closely mirror Federal OSHA's interpretations.

Additionally, many establishments in Tennessee have received multiple inspections likely resulting in fewer serious violations actually being present in the State's workplaces. Monitoring has indicated that the State does effectively identify and cite violations, and that inspectors recognize and properly classify violations (Evaluation Report, pp. 12 and 19). The time spent conducting safety inspections is indeed shorter than Federal OSHA. However, the Evaluation Report indicates that there is no evidence that the State fails to conduct thorough inspections, and concludes that the shorter time does not have a negative impact on the program. Establishments may also be of a smaller size. The Evaluation Report concludes that the State's performance is acceptable.

Neither the data nor any comments suggest the State has any problem in adequately documenting inspections to support citations.

During the 18(e) evaluation period penalty levels for serious safety violations were lower than Federal ($160), while penalty levels for serious health violations ($381) were within the Federal range.

Tennessee conducts a higher proportion of follow-up inspections than does Federal OSHA (21.7% of not-in-compliance inspections). Abatement periods for safety (12.0 days) are comparable to the Federal and somewhat longer for health (41.2 days). Tennessee attempts to document abatement within 30 days for all serious, willful and repeat violations. However, Tennessee's policy of assigning abatement periods for not longer than six months results in an increased number of PMA requests, particularly for health violations. The 18(e) Evaluation Report indicates effective performance since the State is obtaining evidence of abatement in 99.5% of its inspections (pages 20 and 21).

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii). Tennessee's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding and are substantially identical to the Federal procedures with the exception of the

expanded employee right to contest terms and conditions of citations as well as abatement dates. Appeals of citations, penalties and abatement periods are heard by the Tennessee Occupational Safety and Health Review Commission and may be further appealed to the State Court of Appeals. Thirty-two inspections during October 1982 through March 1984 resulted in contests. OSHA evaluation of these cases supported the conclusion that the State's enforcement actions are adequately supported.

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective action. Accordingly, OSHA finds that the Tennessee plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Tennessee plan are competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) Public Employee Program

Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivision, which program must be as effective as the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

Tennessee's plan provides a program in the public sector which is different from that in the private sector. The three significant differences are (1) there are no penalties imposed against employers when violations are found and cited; (2) public sector compliance officers make compliance assistance and courtesy visits, as well as conduct inspections; and (3) 98% of the employers are also covered by a self-inspection program. The State conducted 1488 inspections in the public sector and cited 979 violations.

Injury and illness rates in the public sector in Tennessee are much lower than in the private sector (5.1 combined State and local government all case rate and 2.9 combined State and local government lost workday case rate in 1982). The proportion of inspections dedicated to the public sector (28% of total inspections during the evaluation period) was appropriate to the needs of public employees. Because Tennessee's performance in the public sector compares very favorably to that in the private sector, OSHA concludes that the Tennessee program meets the criterion in 29 CFR 1902.3(j).

(5) Staffing and Resources

Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and compentent personnel to discharge its responsibilities under the plan.

Tennessee has committed itself to funding the State share of salaries for 23 safety inspectors and 14 health enforcement officers as evidenced by the FY 1984 Application for Federal Assistance as amended (Ex. 2-8) as well as its subsequent FY 1985 application. These compliance staffing levels meet the revised benchmarks proposed for Tennessee.

As noted in the **Federal Register** notice announcing certification of the completion of developmental steps for Tennessee (43 FR 20980) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. The Evaluation Report noted that the State provided formal training for all professional employees.

Because Tennessee has allocated sufficient enforcement staff to meet the revised benchmarks for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order in *AFL-CIO* v. *Marshall, supra,* are being met by the Tennessee plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Tennessee plan was funded at $2,345,146 in FY 1984. (50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the Evaluation Report, Tennessee's funding appears sufficient in absolute terms; moreover, the State compares favorably to Federal OSHA with respect to expenditures per covered employee. On this basis, OSHA finds that Tennessee has provided sufficient funding for the various activities carried out under the plan.

(6) Records and Reports

State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Act and 29 CFR 1902.3(l)).

Tennessee's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the January 16 proposal, the State participates and has assured its continuing participation with OSHA in the Federal-State Unified Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Tennessee has met the requirements of sections 18(c) (7) and (8) of the Act on employer and State reports to the Secretary.

(7) Voluntary Compliance Program

A State plan is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the 18(e) evaluation period, Tennessee provided training to 2418 public sector employers, supervisors, and employees. In the private sector, 1675 employers and supervisors and 2288 employees participated in training programs.

In the private sector, Tennessee provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908. On-site consultation for the public sector is incorporated into the enforcement program through a compliance assistance program for the public sector.

Accordingly, OSHA finds that Tennessee has established and is administering an effective voluntary compliance program.

(8) Injury and Illness Statistics

As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics Annual Occupational

Safety and Health Survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, Tennessee's reportable injury and illness rates in absolute terms are slightly higher than Federal averages. It should be noted, however, that this comparative difference existed at the time of the inception of the Tennessee plan in 1973. The overall trend in worker safety and health injury and illness rates since the State began enforcement of its plan compares favorably to that under the Federal program. For example, from 1973 through 1982, the injury and illness all case rate declined 32.5% for all industry, and from 1975 through 1982, 21.4% for manufacturing.

The AFL-CIO's comments noted that while Tennessee's lost workday case rates are lower than the Federal rates, the State's all case rates for all industry and manufacturing are higher.

As noted in the 18(e) Evaluation Report, the 1982 BLS rates (7.9—all case rate for all industry and 10.3 all case rate for manufacturing) for Tennessee were only slightly higher than rates in States where Federal OSHA provides enforcement coverage and are within the prescribed acceptable levels.

Considering the State's overall substantial decline in injury and illness rates, OSHA finds a favorable comparison between Tennessee's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review.

In light of all the facts presented on the record, the Assistant Secretary has determined that (1) the revised compliance staffing levels proposed for Tennessee meet the requirements of the 1978 Court Order in *AFL-CIO* v. *Marshall* in providing the number of safety and health compliance officers necessary for a "fully effective" enforcement program, and (2) that the Tennessee State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR 1902. Therefore, the revised compliance staffing benchmarks of 22 safety and 14 health are approved and the Tennessee State plan is hereby granted final approval under section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective, July 22, 1985.

Under this 18(e) determination, Tennessee will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Tennessee must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effect of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Tennessee plan terminates OSHA authority for Federal enforcement of its standards in Tennessee, in accordance with section 18(e) of the Act, in those issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a)(2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations on proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Tennessee plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in November 1974 and subsequently amended in April 1976.

Federal authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under Section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. Jurisdiction over any proceeding initiated by OSHA under sections 9 and 10 of the Act prior to the date of this determination remains a Federal responsibility. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Tennessee plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private sector maritime employment, employment on military bases, employment at Tennessee Valley Authority facilities, and those activities of railroad employers which are not regulated by another Federal agency since these issues are excluded from coverage under the Tennessee plan. In addition Federal OSHA may subsequently initiate the exercise of jurisdiction over any issue (hazard, industry, geographical area, operation or facility) for which the State is unable to provide effective coverage for reasons not related to the required performance or structure of the State plan.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in

which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in the plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47, *et seq.*, if his evaluation show that the State has substantially failed to maintain a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart P of Part 1952 to reflect the final approval of the Tennessee plan.

A new paragraph § 1952.223, Compliance staffing benchmarks, has been added to reflect the approval of the 1984 revised benchmarks for Tennessee.

A new paragraph § 1952.224, Final approval determination, has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

Newly redesignated § 1952.225, Level of Federal enforcement, has been revised to reflect the State's 18(e) status. The new paragraph replaces former § 1952.222, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on November 11, 1974. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Tennessee, and the Operational Status Agreement is no longer in effect. Section 1952.225 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart P has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.220, to clearly identify the 1973 initial plan approval decision to which it relates. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.226.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Tennessee under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A certification to this effect was previously forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, D.C., this 22nd day of July 1985.

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart P of 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736).

§ 1952.220 [Amended]

2. Section 1952.220 is amended by revising the heading to read: § 1952.220 "Description of the plan as initially approved."

§§ 1952.221, 1952.222, 1952.223, and 1952.224 [Redesignated as §§ 1952.226, 1952.225, 1952.221 and 1952.222, Respectively]

3. Section 1952.221 is Redesignated as § 1952.226

4. Section 1952.222 is Redesignated as § 1952.225

5. Section 1952.223 is Redesignated as § 1952.221

6. Section 1952.224 is Redesignated as § 1952.222

7. The Table of contents for Part 1952, Subpart P is revised to read as follows:

Subpart P—Tennessee

Sec.
1952.220 Description of the plan as initially approved.
1952.221 Developmental schedule.
1952.222 Completion of developmental steps and certification.
1952.223 Compliance staffing benchmarks.
1952.224 Final approval determination.
1952.225 Level of Federal enforcement.
1952.226 Where the plan may be inspected.

8. New §§ 1952.223 and 1952.224 are added to read as follows:

§ 1952.223 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Tennessee, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 22 safety and 14 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 22, 1985.

§ 1952.224 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL–CIO* v. *Marshall* (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Tennessee State plan for a period of at least one year following certification of completion of developmental steps (43 FR 20980). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Tennessee's occupational safety health program is at least as effective as the Federal program in providing safe and healthful employment and places of

employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Tennessee plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 22, 1985.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Tennessee except for private sector maritime, railroad employment, employment at Tennessee Valley Authority facilities and on military bases, as well as any other properties ceded to the United States Government.

(c) Tennessee is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

9. Newly redesignated §§ 1952.225 and 1952.226 are revised to read as follows:

§ 1952.225 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Tennessee plan under section 18(e) of the Act, effective July 22, 1985, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Tennessee plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under sections 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Tennessee plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments), railroad employment, not otherwise regulated by another Federal agency, employment at Tennessee Valley Authority facilities and on military bases. Federal jurisdication is also retained with respect to Federal government employers and employees.

In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be subject to federal enforcement. Where enforcement jurisdicton is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Tennessee State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.226 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30309; and Office of the Commissioner, Tennessee Department of Labor, 501 Union Building, Suite "A"—2nd Floor, Nashville, Tennessee 37219.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-84-18]

Drawbridge Operation Regulations; Clearwater Pass, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the city of Clearwater the Coast Guard is changing the regulations governing the Clearwater Pass bridge by permitting the number of openings to be limited during certain periods. This change is being made because of increased vehicular traffic and multiple draw openings. This action will accommodate the needs of

vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky (305) 350–4103.

SUPPLEMENTARY INFORMATION: On May 10, 1984 the Coast Guard published (49 FR 19849) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 22, 1984. In each notice interested persons were given until June 28, 1984 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

Forty-five comments were received. Seven letters including one with 15 signatures supported the proposal. One letter of support expressed concern for the movement of emergency vehicles, for unnecessary openings for vessel appurtenances, and for the training and quality of bridgetenders. These concerns are addressed in 33 CFR 117.31, 117.11, and 117.7(b)(1), respectively.

Ten individual letters and 23 preprinted form letters opposed the proposal. These comments noted that Clearwater Pass is narrow, subject to strong currents, and congested with boat traffic. They noted that the relatively narrow horizontal clearance of the bridge (50 feet) often limits passage to one vessel at a time. They also noted that Clearwater Pass is the only nearby route to and from the Gulf of Mexico. The Coast Guard agrees that these concerns are valid and therefore evaluated temporary regulations at this bridge in November and December 1984. We requested public comment on the effect of the temporary regulations but received none. Our on site observations of this test and a favorable recommendation from the city of Clearwater led to our decision to implement this final rule.

Other comments were received suggesting alternative time schedules, coordinating openings with the Clearwater Memorial bridge, building a high level, fixed bridge, and dredging additional routes to the Gulf of Mexico. These suggestions were considered but not adopted.

There are several minor differences between the final rule and the proposed rule: These regulations were formerly designated as § 117.467 but have since been redesignated as § 117.277. Legal holidays have been identified as federal holidays. Small craft warnings have been correctly identified as small craft advisories. The U.S. Weather Service has been correctly identified as the National Weather Service. Since the Coast Guard is reconsidering (50 FR 27026) the appropriateness of special regulations for "regularly scheduled cruise vessels" this term has been deleted from the regulation. Provisions for special opening signals and the posting of signs have been deleted since they are now contained in §§ 117.15 and 117.55, respectively.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 of Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g)

2. Section 117.277 is revised to read as follows:

117.277 Clearwater Pass.

(a) The draw of the SR 699 bridge shall open on signal except as provided below.

(b) From 12 noon to 6 p.m. on Saturdays, Sundays, and federal holidays the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

(c) Notwithstanding the provisions of paragraph (b), the draw shall open on signal whenever a National Weather Service small craft advisory or warning for winds of greater force is in effect.

(d) From 11 p.m. to 7 a.m. a delay of up to 10 minutes may be expected unless the drawtender has been contacted by telephone or radiotelephone.

Dated: July 9, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 17352 Filed 7–19–85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7–85–13]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation the Coast Guard is adding regulations governing the Siesta Key bridge by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 350–4103.

SUPPLEMENTARY INFORMATION: On April 29, 1985 the Coast Guard published (50 FR 16721) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 7, 1985. In each notice interested persons were given until June 13, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

A total of 123 comments were received. Nine supported the proposal. Three opposed any restrictions on bridge openings and favored retention of the existing requirement that the bridge open on signal at all times. Ten commenters, including the city of Sarasota, the Southwest Florida Regional Planning Council, and two community associations, requested that the bridge openings be limited to half-

hour intervals instead of the quarter-hour intervals proposed and that the regulation be effective seven days a week instead of just weekends and holidays. In addition, another 101 commenters sent in preprinted postcards favoring daily, half-hour openings.

Restricting drawbridge openings on weekdays is beyond the scope of the proposed regulation. Weekday regulations were considered in formulating the proposed rule but were rejected because of infrequent weekday openings (less than one per hour).

Weekend openings averaged 3.5 per hour with peak activity (4.2 openings) occurring between 1 p.m. and 2 p.m. The Coast Guard believes that limiting weekend openings to one every 30 minutes would create unsafe vessel congestion near the bridge and increase vehicular traffic delays as the draw remained open until all accumulated vessels passed through the span. Authorizing an opening every 15 minutes would reduce unsafe vessel delays and virtually eliminate vehicular delays that result from "back-to-back" draw openings permitted by the existing regulations. Some commenters mistakenly believed that the proposed rules would require the bridge to open every 15 minutes, even if no vessels were waiting. Actually, these rules should reduce the weekend rate of 3.5 openings per hour as vessels would share scheduled openings and would no longer require individual openings. Thirty minute intervals between openings, as requested by most commenters, would occur whenever a scheduled opening is avoided by this forced sharing of bridge openings.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.287 is revised by adding a new paragraph (b-1) to read as follows:

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(b-1) The draw of the Siesta Key bridge, mile 71.6 at Sarasota, shall open on signal, except that from 11 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: July 10, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 85-17351 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-85-15]

Drawbridge Operation Regulations; Oklawaha River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Marion County Commission the Coast Guard is changing the regulations governing the State Road 464 drawbridge at Moss Bluff to provide that the draw need not open. This change is being made because no requests have been made to open the draw in the past six years. This action will relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 350-4103.

SUPPLEMENTARY INFORMATION: On May 13 and May 21, 1985 the Coast Guard published (50 FR 19955 and 50 FR 20918) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 21, 1985. In each notice interested persons were given until June 27, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

The only comment received was from the Florida Department of Transportation advising that the bridge was on State Road 464 rather than State Road 46 as indicated in the existing rule and proposed revision. The final rule incorporates this correction.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because of the lack of navigation upon the waterway requiring the opening of the bridge. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.319 is revised to read as follows:

§ 117.319 Oklawaha River.

(a) The draws of the Sharpes Ferry (SR 40) bridge, mile 55.1, Muclan Farms bridge, mile 63.9, and the Starkes Ferry (SR 42) bridge, mile 73.0, shall open on signal if at least three hours notice is given.

(b) The draw of the Moss Bluff (SR 464) bridge, mile 66.0, need not open for the passage of vessels.

Dated: July 9, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 85-17353 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

National Forest Townsites

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: These revised regulations establish standards to expedite processing of sales of certain National Forest System lands to governmental entities pursuant to the National Forest Townsite Act of July 31, 1958 (72 Stat. 438; 16 U.S.C. 478a) as amended by the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1722). The revision of these regulations clarifies the existing process, provides for prior designation of potential townsites by the Secretary of Agriculture or the Secretary's designee, expedites case processing by reducing the number of decision levels, and reduces regulatory impact on nonfederal entities.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Haarala, Lands Staff, Forest Service, (703) 235-2161.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to expedite processing of sales under the National Forest Townsite Act was published on September 17, 1984, at 49 FR 36405. Individual responses were received from 4 sources: 2 business and 2 Federal Government. A summary of the comments and actions taken in response to the comments follow along with other minor changes in the text resulting from further agency consideration of the proposed rule. The comments and changes are keyed to section headings of the proposed rule.

Response to Public Comments

Section 254.20 Purpose and scope.

The comments on this section dealt with whether the existing 5-acre minimum on lands to be sold had been deleted. Reviewers also felt there was a need to clarify the intent of the terms "intensive" and "seasonal or outside" as used in paragraph (b)(1) and (b)(2) to define acceptable and unacceptable indigenous community objectives. In response we confirm that the minimum acreage requirements were deleted from the proposed rule. Experience has shown that individual tracts of less than an acre are required by some local governmental entities. We also agree that use of the terms "intensive" and "seasonal or outside" in the test tends to confuse rather than clarify the meaning of acceptable indigenous community objectives. The text has been revised to exclude these terms from the final rule. We believe the revised text retains the Congressional intent of the Townsite Act which is to limit conveyances for essential community needs resulting from internal growth and from the need to improve and modernize the facilities and services of an established community.

Section 254.22 Designation and public notice.

The reference to § 254.20 has been deleted from paragraph (2)(1) since it is not relevant to the application procedure.

Section 254.25 Survey.

The comments on this section questioned Forest Service authority to survey designated townsite lands, the standards to be followed in conducting such surveys, and the recording of survey documents.

In response, the Forest Service authority to designate, subdivide or survey, and dispose of National Forest System lands designated for townsite purposes remains unchanged from the previous regulations. Also since extensive standards and direction covering surveying and the other functions for the conveyance of National Forest System lands already exists in other regulations and directives, the duplicate standards were deleted from the revised text of the final rule. In addition to the changes made in response to public comment, several other provisions (254.20(b), 254.22(b), 254.23 (a)(1) and (b)) were rewritten to be clearer and more precise. These revisions do not change the intent or effect of these provisions as they appeared in the proposed rule.

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been determined not to be a major rule. Little or no effect on the economy will result from this regulation. Since the rule provides streamlined procedures for processing townsite applications, time and costs to the Federal Government and to other units of government in handling these cases should be significantly reduced.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it would result in reducing procedures and associated paperwork.

The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisition and exchanges, Permits, Sales.

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is revised to read as follows:

PART 254—LAND OWNERSHIP ADJUSTMENTS

Subpart B—National Forest Townsites

Sec.

254.20 Purpose and scope.
254.21 Applications.
254.22 Designation and public notice.
254.23 Studies, assessments, and approval.
254.24 Conveyance.
254.25 Survey.
254.26 Appraisal.

Authority: Pub. L. 85-569; 72 Stat. 438; 16 U.S.C. 478a, as amended by Sec. 213, Pub. L. 94-579; 90 Stat. 27431.

Subpart B—National Forest Townsites

§ 254.20 Purpose and scope.

(a) A Forest Service official may, upon application, set aside and designate for townsite purposes up to 640 acres of National Forest System lands adjacent to or contiguous to an established community in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(b) National Forest System lands, needed by a community, may be sold under the Townsite Act, for fair market value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous community objectives may include space for housing and for service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreation

areas for local citizens, but would exclude such uses as commercial enterprises or new industries and housing projects that would change the character of the local community.

§ 254.21 Applications.

(a) An application to purchase National Forest System lands—

(1) Must be made by designated officials) authorized to do business in the name of a county, city, or local governmental subdivision;

(2) May be in the form of a letter, ordinance, or resolution;

(3) Must be furnished to the District Ranger or the Forest Supervisor for the National Forest area in which the lands are situated; and

(4) Must be limited to 640 acres or less adjacent to an established community.

(b) An application must be accompanied by—

(1) A description of the land desired; and

(2) A development plan, consisting of a narrative statement and map, which gives a detailed description of the intended use of the site and how essential community needs will be met by the purchase.

§ 254.22 Designation and public notice.

(a) A Forest Service official must—

(1) Ensure the application meets the requirements of § 254.21;

(2) Process an order to set aside and designate the lands for townsite purposes; and

(3) Transmit, where applicable, a copy of the designation order to the State Director, Bureau of Land Management.

(b) The designation order will segregate the lands from other forms of entry as long as the application remains in force.

(c) The designation order does not preclude compatible land adjustments under the Secretary's authority within the area set aside.

(d) A Forest Service official must prepare a public notice of the proposed townsite sale to be inserted once a week for 4 consecutive weeks in a local newspaper:

(1) The notice shall include descriptive information on the proposed townsite sale and identify the applicant and responsible Forest Service official; and

(2) A period of 45 days, from first date of publication, must be provided for accepting public comments.

§ 254.23 Studies, assessments, and approval.

(a) After initial public notice has been published, a Forest Service official must conduct the necessary studies and assessments to—

(1) Determine if the applicant has made a satisfactory showing that the land will meet essential community needs resulting from internal growth;

(2) Determine if lands applied for would serve indigenous community objectives that outweight other public objectives and values which would be served by maintaining such a tract in Federal ownership;

(3) Determine if the sale would substantially affect or impair important scenic, wildlife, environmental, historical, archeological, or cultural values;

(4) Evaluate the applicability of public comments;

(5) Identify the extent of valid existing rights and uses; and

(6) Determine if zoning ordinances, covenants, or standards are needed to protect adjacent National Forest land and to protect or mitigate valid existing rights and uses.

(b) Upon approval, the authorized Forest Service official shall take appropriate steps to have an assessment made of the fair market value of the land and process the conveyance pursuant to §§ 254.24, 254.25, and 254.26.

(c) Upon disapproval, a Forest Service official shall—

(1) Notify the applicant in writing of the reasons the proposal is not acceptable;

(2) Inform the applicant of alternate proposals under other authorities and/or appeal rights.

§ 254.24 Conveyance.

(a) Conveyance of the approved tract(s) may be made by a single transaction or by multiple transactions spread over a period of time in accordance with a prearranged schedule.

(b) The authorized Forest Service official shall—

(1) Execute and convey title to the townsite tract(s) by quitclaim deed;

(2) Ensure deeds are free of terms and covenants, except those deemed necessary to ensure protection of adjacent National Forest System land and/or valid existing rights and uses; and

(3) Deliver executed deeds to the governmental body upon—

(i) Adoption of zoning ordinance and development plan if found necessary; and

(ii) Notice from the authorized Forest Service Fiscal Agent that payment has been received.

§ 254.25 Survey.

The authorized Forest Service official shall conduct or provide for the necessary tract survey and boundary posting of National Forest System land.

§ 254.26 Appraisal.

Fair market value of townsite tracts shall be determined following Forest Service appraisal procedures and the Uniform Standards for Federal Acquisitions.

Dated: April 26, 1985.

[FR Doc. 85-17385 Filed 7-19-85; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans' Education; Reports of Unsatisfactory Progress

AGENCY: Veterans' Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans' Administration) is amending the regulation dealing with reports of a veteran's or eligible person's unsatisfactory progress in training under the GI Bill. This is a technical amendment which eliminates a reference to a subparagraph which no longer exists. This change should eliminate any confusion which may have been caused by this obsolete reference.

EFFECTIVE DATE: July 8, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 1549 and 1550 of the **Federal Register** of January 11, there was published a notice of a proposal to amend 38 CFR Part 21 in order to clarify how the VA will determine whether a veteran's or eligible person's progress is satisfactory.

Interested people were given 30 days to submit comments, suggestions, or objections. The VA received four letters containing comments and one telephone call. Two of the letters were from school officials, and two were from officials of educational organizations. The telephone call was from an official of a State approving agency.

The letter writers were generally pleased with the amended regulation. They thought that this marked the end of the VA's setting standards for educational institutions.

Between 1976 and 1980 the law permitted the VA to determine whether a veteran's progress was satisfactory by using either the school's own standards or a minimum standard contained in the law. The regulation which contained this minimum standard was § 21.4277(a)(2).

In 1980 Pub. L. 96–466, the Veterans' Rehabilitation and Education Amendments of 1980 was enacted. This law amended title 38, United States Code, to require the VA to use the schools' own standards when determining whether the veteran's progress was satisfactory. Accordingly, § 21.4277(a)(2) was removed from the Code of Federal Regulations. The VA no longer imposed its own standards on schools or educational institutions.

However, through oversight a reference to § 21.4277(a)(2) was left in § 21.4203. The proposal of January 11 was designed to correct this oversight, and to make clear that only the schools' own standards will be used to determine satisfactory progress. Since the VA is required to follow the United States Code, the standards formerly found in § 21.4277(a)(2) have not been followed since the law was changed in 1980. Hence, this technical amendment should have no effect on the way in which the VA is determining satisfactory progress.

The State approving agency thought that the VA was trying to prevent State governments or State approving agencies from requiring schools to have certain minimum requirements in their standards of progress. The VA is not trying to usurp the functions of State governments. If, for example, a State requires that a school establish certain minimum standards in order to obtain a license to operate in that State, the State approving agency may include establishment of those standards as an approval criterion. The VA does not wish to encourage schools to ignore State laws and regulations, and the VA does not think that this amended regulation will have that effect. Accordingly, the regulation is being made final without change.

The Administrator of Veterans Affairs has certified that amendment of this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the (RFA) Regulatory Flexibility Act, 5 U.S.C. 601–602. Pursuant to 5 U.S.C. 605(b), the amendment of this regulation, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This certification can be made because the other sections which deal with standards of progress already state that satisfactory progress will be determined by the regularly prescribed standards and practices of a school. As stated above, regulations already in effect state that those standards should be related to the student's grade. The amended regulation should affect only those veterans and eligible persons who are attending schools where a misunderstanding has arisen concerning the VA's policy in this area.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 8, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION is amended by revising the introductory text of § 21.4203(h)(1) to read as follows:

§ 21.4203 Reports—requirements

* * * * *

(h) * * *

(1) A veteran's or eligible person's progress may become unsatisfactory according to the regularly prescribed standards and practices of the school as a result of the grades he or she receives The school shall report such unsatisfactory progress to the VA in time for the VA to receive it before the earlier of the following dates is reached: (38 U.S.C. 1674)

* * * * *

[FR Doc. 85–17316 Filed 7–19–85; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 217

DoD FAR Supplement; Reverse Engineering

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD FAR Supplement Part 217 is revised to allow delegation of authorization of reverse engineering projects to a lower level within the Air Force than is currently stated in the coverage.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, OASD(A&L)(AM)(DARS), Room 3D139, Pentagon, Washington, D.C. 20301, telephone (202) 697–7267.

SUPPLEMENTARY INFORMATION: Public comments have not been solicited since such revision does not have a significant impact on contractors or offerors and does not have a significant effect beyond agency internal operating procedures.

Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1984 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84–1 through 84–3.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

Impact

The Department of Defense has certified 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.). The rule has no impact outside of the agency. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 217

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Part 217 is amended as set forth below.

1. The authority for 48 CFR Part 217 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 217—SPECIAL CONTRACTING METHODS

217.7201–2 [Amended]

2. Section 217.7201–2 is amended by deleting the last sentence of paragraph (b)(4).

[FR Doc. 85–17327 Filed 7–19–85; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-16; Notice 4]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to allow installation of modulating headlamps on motorcycles. Such a headlamp, whose use is currently not allowed, could improve conspicuity of a motorcycle and its operator during daylight. The rule completes agency action following the agency's grant of a petition by Harley-Davidson Motor Co., Inc. A notice of proposed rulemaking (NPRM) was published on August 28, 1984, which was a revision of the notice of proposed rulemaking published on September 23, 1982. Although the notice also proposed amending Safety Standard No. 123 to establish location and operation requirements for headlamp modulator switches for new motorcycles on which modulating headlamps have been installed as original equipment, this proposal has not been adopted.

DATE: Effective date of the amendment August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Paragraph S4.6(b) of Standard No. 108 requires headlamps to be steady-burning when in use although allowing them to be flashed automatically for signalling purposes. This paragraph allows cycles of activation and deactivation of the headlamp but it has not been interpreted as allowing cycles of varying intensity (modulation).

Harley-Davidson Motor Co., Inc., of Milwaukee, a manufacturer of motorcycles, wished to introduce headlamp modulation as an option and petitioned the agency for an amendment to Standard No. 108 to allow it. The agency granted the petition and published an NPRM on September 23, 1982 (Notice 1, 47 FR 42009), later extending the time in which to comment (Notice 2, 47 FR 47896) upon petition by the American Motorcycle Association. A revised NPRM was published on August 28, 1984 (Notice 3, 49 FR 34050).

Background of 1982 NPRM

In 1979, on behalf of the agency, the Highway Safety Research Institute evaluated various means of increasing the conspicuity of motorcycles and their operators (DOT-HS-805143). More than 30 types of conspicuity treatments were developed. Three principal means of improvement were found. One was the wearing by the cyclist of a high visibility vest and helmet cover. Another was continual operation of the low beam of the headlamp during daylight (it is now the practice of virtually all cycle manufacturers to wire the headlamp so that it is on when the engine is running). The third was modulation of the upper beam of the headlamp from full to low intensity at three times per second. Data show that about 75 percent of motorcycle accidents occur in daytime. Therefore, enhancement of conspicuity during daylight hours is manifestly in the interests of motor vehicle safety. For this reason and because some State legislatures have shown interest in allowing modulated headlamps on their highways, NHTSA tentatively concluded that cyclists should be afforded an option to choose a headlamp wired to modulate on the upper beam from higher to lower intensity at a pulse rate from 150 to 240 cycles per minute.

The agency particularly solicited comments from States, and from individuals who had used these lamps. Emphasis was placed on whether there was a potential for misuse; for example, the likelihood of use of the modulating mode under conditions such as inclement weather or dusk when the steady-burning mode is required for safety.

Comments on 1982 NPRM

Over 150 comments were received on the initial NPRM, of which only 17 could be characterized as objecting to the proposal. The principal comments in opposition were submitted by the States of Maryland and Minnesota. Each raised the possibility that a motorcycle with a modulating white headlamp might be perceived as a potential emergency vehicle, since flashing white lights in those States are generally reserved for emergency vehicles. Maryland commented that a mixture of motorcycles with and without modulating headlamps would compound the potential for confusion. It suggested mandatory usage of a measure other than modulating headlamps to enhance conspicuity. Minnesota asked for safeguards to prevent the modulator from being operated when steady-burning headlamps are required. Commenters also asked for an automatic fail-safe provision to allow headlamp use if the modulator or its circuit failed.

The issue of "photic driving" was raised by the Insurance Institute for Highway Safety, the National Society for the Prevention of Blindness, and others. This issue concerns potential adverse reactions in the central nervous system from regularly flashing lights, similar to epileptic seizures. These are termed "photic driving" and can occur in persons not otherwise prone to epilepsy. These commenters recommended that the agency determine whether modulating headlamps would cause a photic driving problem prior to permitting their use. Their main concern related to the rate of modulation that would be allowed. One commenter, the California Highway Patrol, suggested a rate between 200 and 280 cycles per minute, specified for use in that State.

A final group of commenters expressed concern that modulating headlamps would prove distracting to other drivers, either when viewed directly oncoming, or indirectly in rearview mirrors.

The agency gave lengthy consideration to all these comments and concluded that none of them justified termination of the rulemaking action. It also concluded that the standard should not be amended in the manner proposed, and that a further notice of proposed rulemaking would be required to implement the suggestions and allay the concerns expressed in the comments to the initial proposal.

The 1984 NPRM

The agency did not deem it likely that a modulating headlamp would be perceived as belonging to an emergency vehicle for several reasons. One is that usually there would be only one headlamp, or two closely spaced headlamps, flashing rather than a widely spaced pair as would be the case with an emergency vehicle. Also, emergency vehicles would normally have either red or blue flashing lights in addition to the flashing headlamps, which a motorcycle would not have. The modulated headlamp would also be substantially different than the white "strobe" lights that are used on emergency vehicles and which usually are intense, of short duration and flash at a higher rate than proposed for modulated headlamps. "Strobe" lights also have a sharp distinction between the "on" condition and the "off" condition whereas modulated

headlamps make a gradual transition from a higher intensity to a lesser one.

NHTSA tentatively concurred with Minnesota's request for safeguards against misuse, and proposed, in essence, that any modulating system be automatically activated by ambient light so that when steady-burning headlamps are required (e.g., at night), the modulator could not be used. Also proposed was a requirement to prevent excessive voltage drops in the circuit caused by inferior switches. The limit for voltage drop was proposed at .45 volt.

The agency reviewed its proposed flash rate of 150 to 240 cycles per minute, and concluded that 150 cycles was too close to that of turn signals and hazard warning signals for its intended purpose. Because the State of California had specified 200 to 280 cycles per minute for 3½ years with no apparent problems, the agency proposed a cycle rate of 240±40 per minute.

With respect to the photic driving phenomenon, the agency tentatively concluded that modulating headlamps would cause no problem during daytime if a pulse rate of 4 per second (240 cycles per minute) were used. This conclusion was based upon two aspects of the phenomenon: The pulse rate of the light and the amount of contrast between the light and the background. From the available studies on the subject, it appeared that people are most likely to be affected if the light flashes at about 10 flashes per second (600 per minute) and/or when the background is very dark. Thus, modulation of headlamps at night within the proposed pulse rate could possibly produce a signal that is in the range of reported conditions that produce photic reactions. Accordingly, NHTSA proposed, in essence, that modulation be allowed only during daylight conditions. This could be accomplished through the use of a light sensor, which NHTSA believed could be incorporated into the system for less than $1.00. Specific comments were sought on the incremental cost of such a sensor. With such a device, headlamp modulation would cease when the level of ambient light falls below the normal daytime light level (or below the level of high intensity street lights). The sensor would be mounted either upward to measure direct light, from above the motorcycle, or downward to measure indirect light, reflected off the pavement beneath the motorcycle.

In developing this aspect of the proposal, NHTSA gave close attention to comments from Dotech, Inc., submitted to the docket on January 9, 1984, and April 30, 1984. Dotech had measured both incident light and reflected light levels from various types of street lighting in parking lots and on parkways at night to determine appropriate values for direct or reflected light to deactivate the modulator. Dotech found that incident light levels did not change significantly when it moved its light meter from waist level up and down several feet, while conducting direct light measurements under street lights located 30 feet above the pavement. Reflected light was measured with the meter three feet above the pavement. Dotech initially concluded that the modulator sensor should have a vertical orientation to avoid light reflected from headlamps or other sources, and that appropriate values appeared to be 430 lux (40 foot-candles) of direct light, or 150 lux (13.9 foot-candles) of indirect reflected light. Subsequently, however, Dotech recommended 270 lux (25 foot-candles) for direct light and 60 lux (5.6 foot-candles) for reflected light as more appropriate based on its experiments. Accordingly, NHTSA proposed that modulator systems be equipped with a sensor which would deactivate the modulator whenever the light level appropriate for the sensor's orientation is reached. The upward or downward orientation of the sensor would be at the option of the manufacturer. The light source that NHTSA proposed to use in its compliance tests of the systems would be a tungsten filament lamp operating at 3000 degrees Kelvin. Because of the dearth of comments in this area, other than that of Dotech, and because of Dotech's own modified conclusions, NHTSA was particularly interested in additional comments on the appropriateness of the values of direct and reflected light that it proposed.

There were also additional features that were not proposed in the initial notice that NHTSA proposed to incorporate into a modulating headlamp standard. The first of these was the proposal of a modulation depth limit to assure that not less than 17 percent of full luminous intensity is available regardless of lamp wattage. This would serve to prevent early bulb filament failure and to ensure that a distinction remains between the modulating headlamp and flashing strobe lights used on emergency vehicles, as well as lessening the likelihood of a "photic response".

To assure performance of the headlamp modulator, NHTSA proposed an accelerated environmental requirement comprised of a temperature and humidity test. NHTSA proposed to use the SAE Standard for vehicle hazard warning signal flashers, J945b, as a guide to thermal extremes, acceptable voltage variation and general procedure. Humidity exposure was added as were performance checks at each environmental extreme. The test duration proposed was 60 hours.

With respect to the aftermarket, NHTSA proposed only that each modulator be labelled with the maximum wattage for which it is intended. Some motorcycles, for example, may have two 70-watt headlamps while others may have a single 35-watt headlamp. The consumer must be provided information to determine whether a modulator is sufficient to drive high-wattage or multiple headlamps.

A companion amendment to Standard No. 123, *Motorcycle Controls and Displays*, was proposed for location and operation requirements for modulator switches on vehicles equipped by their manufacturers with modulating headlamps. The agency specifically invited comments on the location of the Modulate position on the Headlamp Beam Control Switch.

Comments on 1984 NPRM

Over 50 comments were received in response to the second NPRM, virtually all of which supported it and some of which suggested minor modifications and refinements that the agency has adopted.

The first significant issue raised was whether modulation might not be allowed on the lower beam (only the upper beam was proposed), with some commenters expressing the opinion that the lower beam modulation might be less irritating to oncoming drivers, as well as being consistent with the driving requirement of dimming upper beams when approaching other vehicles. Intuitively this comment has appeal and NHTSA has concluded that lower beam modulation should be permitted for the reasons discussed below.

In studies of daytime running lights, a value of 1500 candela has been found sufficient to demonstrate conspicuity of a passenger car more than a mile away. Therefore, the 3000 candela that most motorcycle headlamps have at the H–V test point would be more than sufficient for conspicuity. In addition, the requirement that the minimum intensity during modulation be not less than 17% of full-on intensity during modulation reduces the possibility that modulation will be less effective for conspicuity than a steady-burning lower beam.

There are additional factors in support of allowing modulation on the lower beam. An increasing number of

motorcycles are being equipped with headlamps of greater wattage. For these motorcycles, use of the upper beam for modulation might create a glare problem. On the other hand, smaller motorcycles with headlamps of no greater output than 35 watts may find an upper beam modulator more effective. Based upon the comments, NHTSA has decided to allow modulation on either the upper or lower beam, at the manufacturer's option. The headlamp would not be permitted to modulate on the beam not chosen, and therefore, the operator would not be able to switch the beam for which modulation was produced by the manufacturer. NHTSA also proposed that the modulator be equipped with a sensor that would activate and deactivate it. Comments were generally directed to factors which might impair satisfactory operation of the sensor, such as mounting in a shielded location where light might not reach it, or in a location where it could be obscured by dirt. The effect of either of these factors would be to deactivate the device at a time when it should be functioning. No further comments were received on the issue of photic driving.

Harley-Davidson expressed particular concern that the reliability of the sensor would be reduced by the addition of components to provide the light sensing functions, raising the possibility that if it failed in one mode it might not operate at all, but that failure in another would cause continuous operation. Further, comments were made to the effect that a manufacturer of a modulator, Dotech, had applied for patents that cover the construction of the light sensor and that NHTSA might be in the position of having written a standard that mandated a design that was under the monoply control of the patent holder. NHTSA has reviewed these comments. The manual by-pass switch required for these systems will assure the restoration of normal operation in the event of a malfunction in the modulator. Further, the humidity-temperature test that was proposed and now adopted will insure system reliability. Although Dotech has applied for patents, it is only one manufacturer of modulating devices. While Dotech uses a light sensing transistor for a light detector, a number of other types of light sensors can be used, such as solar cells and light dependent resistors.

The notice proposed a maximum allowable voltage drop of .45 volt across the modulator during operation. Koito commented that it was impossible to meet this requirement with high wattage headlamps since the voltage drop across the transistor is increased. Koito recommended 1.5 volts, or, alternatively no requirement. The suggested 1.5 volt value is unacceptable to the agency as it could result in a reduction to 65% of normal intensity during nighttime when the lights are steady-burning. NHTSA is aware of transistor switches which are available which can handle power requirements without excessive voltage drop. Another possible solution to the problem is the use of mechanical relays in a hybrid circuit with switch transistors. Therefore NHTSA has adopted the proposed voltage drop of .45.

Part of the proposed temperature-humidity test involves operation of the modulator at −25°F for three hours. Some commenters objected to the temperature arguing that few will ride their motorcycles at such an extremely low temperature. The agency wishes to insure that modulators remain operative when subjected to temperatures of the sort that have been experienced through wide areas of the United States during winters in the past ten years. Motorcycles may be exposed to this extreme at times other than when in use; for example, when parked overnight. Current SAE standards on flashers and switches require operation at −25°F and the proposed test values were taken from these SAE requirements which reflect industry capability and practice. The agency understands that modulators can operate at this temperature, and is therefore adopting the value as proposed.

NHTSA also proposed that the headlamp dimmer switch incorporate a modulator position when this feature is offered as original equipment. Two commenters indicated that frequent use of the modulator switch is not required, and that it does not have to be as accessible as the upper-lower beam switch. In addition, the requirement would not cover the switch for aftermarket modulators. For these reasons, NHTSA has not adopted the position indicator proposal, nor the companion proposal to amend Safety Standard No. 123 to identify the modulator position.

NHTSA has considered the impacts of this rule and has determined that it is neither major within the meaning of Executive Order 12291 nor significant under Department of Transportation guidelines regarding regulatory policy and procedure. The rule will have an impact only on those who voluntarily choose to produce and buy an alternative headlamp. Because the modulating headlamp will not be required but is simply an option to a standard motorcycle headlamp, there will be no mandatory increased manufacturing costs connected with this proposal. The cost to the purchaser who chooses a headlamp with a modulating switch would be about $40. However, since this feature would presumably be desired only by those purchasers who selected it as an option, NHTSA does not anticipate any impact on motorcycle sales. The impacts of this rule are so minimal that preparation of a regulatory impact analysis or a full regulatory evaluation is not warranted.

NHTSA has analyzed this rule for the purpose of the National Environmental Policy Act, and has determined that it would not have a significant effect on the human environment since neither the weight nor quantity of materials used in the manufacture of the lamps is greatly affected.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a flexibility analysis. Manufacturers of motorcycle headlamps and modulators, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, compliance with the adopted changes is optional. Small organizations and governmental jurisdictions would be affected only to the extent that law enforcement agencies chose to purchase motorcycles with modulating headlamps.

Because the amendment relieves a restriction and does not impose a burden upon any party, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest, and its amendment is effective 30 days after publication in the Federal Register.

The engineer and attorney primarily responsible for this notice are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 19 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Motor vehicle equipment, Lamps—reflective devices and associated equipment.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.108 is amended as follows:

§ 571.108 [Amended]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Paragraph S4.6 is redesignated S4.5.11 and revised to read:

S4.5.11 The wiring requirements for lighting equipment in use are:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall be wired to flash;

(b) High-mounted stop lamps on passenger cars manufactured on or after August 1, 1984, but before September 1, 1986, may flash when the hazard warning system is activated;

(c) Headlamps and side marker lamps may be wired to flash for signalling purposes;

(d) A motorcycle headlamp may be wired to allow either its upper beam or its lower beam, but not both, to modulate from a higher intensity to a lower intensity in accordance with section S4.6;

(e) All other lamps shall be wired to be steady-burning.

3. A new paragraph S4.6, *Motorcycle headlamp modulation system* is added to read:

S4.6 *Motorcycle headlamp modulation system.*

S4.6.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

(a) The rate of modulation shall be 240±40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R-27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modulator when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. The modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S4.6.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labelled with the maximum wattage, and the minimum wattage, appropriate for its use. Additionally, each such modulator shall comply with S4.6.1 (a) through (g) when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(g) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

4. A new Figure 9 is added as follows:

Issued on July 16, 1985.

Diane K. Steed,

Administrator.

BILLING CODE 4910-59-M

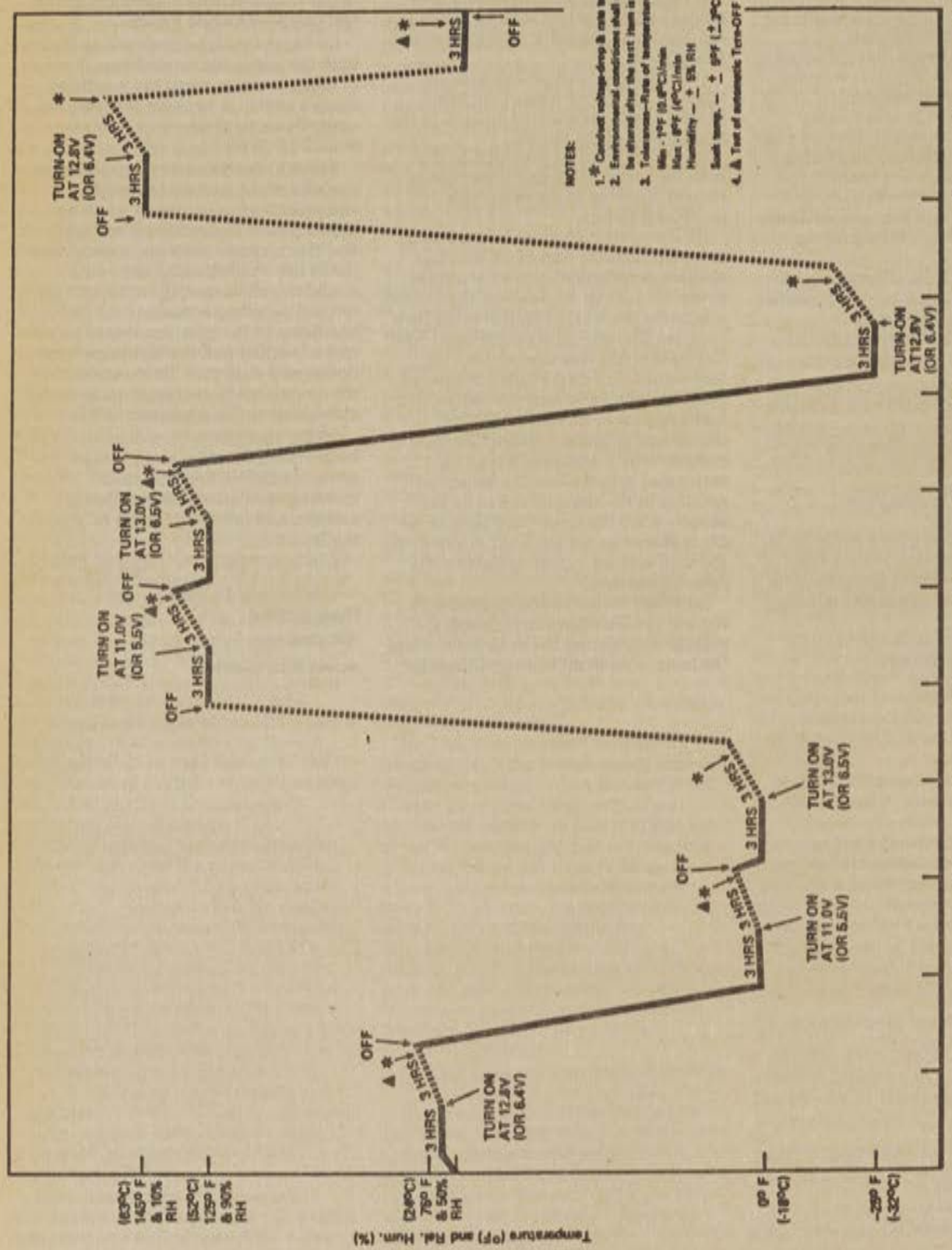


Figure 9

[FR Doc. 85-17332 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-59-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 41046-4174]

Foreign Fishing and Groundfish of the Gulf of Alaska

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

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Groundfish are apportioned according to the regulations implementing that FMP. The purpose of this action is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OYs) are established by the FMP, which was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and implemented by rules appearing at 50 CFR 611.92 and Part 672. The OYs are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under §§ 611.92(c) and 672.20(c). In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1985 were based in part on the projected needs of the U.S. industry as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in September 1984. The Regional Director initiated another survey in March 1985, for which the results are now complete.

Survey results indicate that more than half of the Gulf of Alaska U.S. DAP fisheries and JVP fisheries for species other than pollock will occur during the second half of the year. It is therefore impossible to determine at this time what amounts of DAH, if any, will prove excess to the needs of U.S. fishermen. The reapportionment of any DAH to TALFF would thus be inappropriate. Reapportionment of DAH and any reserves not released by this action will be considered at a later date.

The regulations implementing the FMP require that, as soon as practicable after April 1, June 1, and August 1, or on other dates as are determined appropriate, the Secretary of Commerce will apportion to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and will apportion to TALFF the remaining portion of the reserves. The initial figures for 1985 (50 FR 467, January 4, 1985), were recently revised in an emergency rule published elsewhere in this issue of the **Federal Register.** This action supplements DAH and TALFF from reserves. The changes are summarized in Table 1.

TABLE 1.—GULF OF ALASKA REAPPORTIONMENTS OF OY

	DAH	DAP	JVP	Reserve	TALFF
Pollock (Western/Central) OY = 305,000	256,871	44,371	212,500	23,129	25,000
This action			+8,000	−23,129	+15,129
Revised			220,500	0	40,129

Apportionments to DAH

The joint venture catch to date of pollock in the Western/Central area of the Gulf of Alaska is 220,000 metric tons (mt), exceeding the current JVP of 212,500 mt. Therefore, 8,000 mt of the pollock reserves in the Western/Central area is apportioned to JVP.

Apportionments to TALFF

In the Western/Central area, 15,129 mt of the pollock reserve is transferred to TALFF. Based on the industry surveys discussed above and reports of catch to date, it is found that these fish will not be taken by U.S. fishermen during 1985.

Comments and Responses

In accordance with §§ 611.92(c) and 672.20(c), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those sections of the regulations offer the public an opportunity to submit comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. No comments were received.

Classification

This action is taken under §§ 611.92(c) and 672.20(c) and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulations regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

(16 U.S.C. 1801 *et seq.*)

Dated: July 17, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Services.

[FR Doc. 85-17375 Filed 7-17-85; 5:06 pm]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 672

[Docket No. 50711-5111]

Groundfish of the Gulf of Alaska

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

ACTION: Emergency interim rule; reduction of optimum yield for four species; initial 1985 groundfish specifications; establishment of prohibited species catch limits; reapportionment of reserves.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the conduct of groundfish fisheries in the Gulf of Alaska, because exploitable biomasses of pollock, Pacific ocean perch, "other rockfish", and Atka mackerel will not support harvests at the currently specified optimum yield (OY) levels and because OYs of sablefish, Pacific ocean perch, and "other rockfish" will be fully utilized by U.S. fishermen, preventing allocations under existing rules to joint venture and foreign fisheries. The Secretary, therefore, reduces the OYs for pollock, Pacific ocean perch (POP), and Atka mackerel, as well as for the "other species" category as required by formula under the Fishery Management

Plan for Groundfish of the Gulf of Alaska (FMP). He has established prohibited species catch (PSC) limits for (1) sablefish and POP in joint venture fisheries and (2) sablefish, POP, and "other rockfish" in foreign fisheries. The OY reductions are necessary to prevent overfishing, which would otherwise occur if harvests were to exceed levels that the stocks will support. The establishment of PSC limits is necessary to minimize the incidental catch of species fully utilized by U.S. fishermen and to avoid the wastage of large amounts of target groundfish species that would otherwise occur if joint venture or foreign fisheries were to be prohibited. The 1985 initial apportionments of all OYs, including those implemented by this emergency rule, are announced in this notice, which is necessary to make allocations available to United States and foreign fishermen for the 1985 fishing year. These actions are intended as conservation measures that respond to the best available scientific information on the status of these fishery stocks and are intended to inform the fishing industry of the amounts of groundfish available in order to provide for an orderly fishery.

DATES: In § 611.92, paragraphs (b)(2), (c)(2)(i) (A), (D), and (E), (c)(2)(ii) (A), (B) and (C), (e)(3)(ii), and (f)(2)(i) are suspended from July 17, 1985 until October 15, 1985. New paragraphs (b)(5), (c)(2)(i) (F), (G), (H), and (I), (c)(2)(ii) (D), (E), (F), (G), and (H), and (i) are added, effective from July 17, 1985 until October 15, 1985. In Part 672, Table 1 in § 672.20(a) is replaced with a new table, and a new paragraph § 672.20(a)(4) and a new § 672.21 are added to be effective from July 17, 1985 until October 15, 1985. Comments on the reapportionments under § 672.20(c)(4) are invited until August 1, 1985.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. The environmental assessment prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS) 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

Reductions in Optimum Yields

The domestic and foreign groundfish fishery in the fishery conservation zone (3–200 miles offshore) of the Gulf of Alaska is managed under the FMP, which was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978). Twelve amendments to the FMP have been approved and implemented by the Secretary.

Stocks of groundfish are managed on the basis of the best available scientific information. For the 1985 fishery, the best available information on pollock, Pacific ocean perch, Atka mackerel, and "other rockfish" is derived from results of the triennial Gulf of Alaska biomass survey conducted by the Northwest and Alaska Fisheries Center. After conducting the survey, the Center provided the Council's Plan Team and Scientific and Statistical Committee (SSC) with their results. Their recommendations were presented to the Council at its December 5-8, 1984, meeting. After considering the recommendations, the Council established new OYs for pollock, Pacific ocean perch, Atka mackerel, and "other rockfish" (see Table I).

TABLE I.—EQUILIBRIUM YIELD (EY), INITIAL OPTIMUM YIELD (OY) [50 FR 468, JAN. 4, 1985], NEW OY AND RESERVE [COUNCIL ACTION OF DECEMBER 1984], AND PROHIBITED SPECIES CATCH (PSC) LIMITS [COUNCIL ACTION OF FEBRUARY 1985] IN THE JOINT VENTURE (JVP) AND FOREIGN (TALFF) FISHERIES BY REGULATORY AREA IN THE GULF OF ALASKA

[Figures are in metric tons]

Species/area	EY	Initial OY	New OY	20-pct reserve	PSC	
					JVP	TALFF
Pollock: Western/Central		400,000	305,000	61,000		
Sablefish:						
Western	2,227	1,670	1,670	334	245	140
Central	4,080	3,060	3,060	612	545	31
Pacific Ocean perch:						
Western	1,736	2,700	1,302	260	53	30
Central	5,208	7,900	3,906	781	98	16
Atka mackerel:						
Western		4,678	4,678	935		
Central		20,836	500	100		
Eastern		3,186	100	20		
Other rockfish: gulf-wide	(1)	7,600	5,000	1,000		25
Other species: gulf-wide		28,780	22,460	4,492		

[1] Unknown.

The Council has approved preparation of an FMP amendment to reflect these changes, but voted to request the Secretary in the interim to implement the modifications by emergency rule under § 305(e) of the Magnuson Act. Apportionments of the OYs contained in Table 1 of §672.20 are intended to satisfy procedures required by § 672.20(a)(2) for prescribing initial 1985 apportionments. Comments received on the initial apportionments are summarized and responded to in this document.

Reasons for the changes in OY for each species follow:

Pollock—Based on acoustic surveys conducted in the Shelikof Strait region of the Gulf of Alaska during March and April, 1984, pollock biomass is estimated to be about 1,800,000 metric tons (mt). This amount represents the biomass in the Central and Western Regulatory Areas combined, because few pollock were found elsewhere in these areas while surveys were conducted during the spawning period. Similar surveys were conducted in Shelikof Strait during 1980, 1981, and 1983. Results of the 1984 survey indicate that biomass continued to decrease from the peak level reached in 1982. Length and age composition and hydroacoustic survey data from 1984 joint venture fisheries confirm that the 1980 year class (age 4 fish) is weak. The 1981 year class (age 3 fish) also appears to be weak. The abundance estimate of age 3 fish in 1984 is about the same as age 3 fish (1980 year class) in 1983. It is estimated that the exploitable biomass (age 3 and older) of pollock has now declined from the 1984 level by some 500,000, mt, to fall within a range of 1,200,000 to 1,270,000 mt. An acceptable maximum exploitation rate of 28.5 percent would provide a harvest between 342,000 mt and 362,000 mt. The Council and the SSC reviewed the Plan Team's concern that most of the 1985 harvest will come from the two dominant year classes, 1978 and 1979, which are 7- and 6-year old fish in the 1985 fishery. Recognizing the dependence of the fishery on these two year classes and the continuing poor recruitment from others, the Council applied a more conservative allowable exploitation rate of 24 percent to the upper end of the exploitable biomass range, resulting in an OY of 305,000 mt.

Pacific ocean perch (five-species complex)—Results of the triennial Gulf

of Alaska biomass survey indicate that the current exploitable biomasses of POP are 53,400 mt, 120,150 mt, and 93,450 mt in the Western, Central, and Eastern Regulatory Areas, respectively. Respective equilibrium yields (EYs) are 1,736 mt, 5,208 mt, and 4,530 mt. The Council considered the desirability of establishing OYs at levels that would provide only minimal bycatches incidental to other target fisheries in order to promote fast rebuilding of POP stocks. It concluded that such minimal levels would be detrimental to developing domestic fisheries if the fisheries' operations were terminated by prematurely achieved bycatches. The Council, therefore, established OYs in excess of minimum bycatch levels, 1,302 mt in the Western Area and 3,906 mt in the Central Area. It retained the existing OY of 875 mt in the Eastern Area to promote rapid stock rebuilding.

Other rockfish—This group contains about twenty-five species of "other rockfish", excluding the POP complex, that occur along the continental slope and on the continental shelf. These species are taken incidentally in other target fisheries. The condition of "other rockfish" has been depressed for several years. Although catches by foreign nations ranged from 7,600 to 10,200 mt during the years 1973–1975, few other data exist about the condition of "other rockfish". The Gulf-wide OY for this group has been set at 7,600 mt since 1979; the maximum sustainable yield is established by the FMP to equal the range of catches occurring during the mid-1970s of between 7,600 mt and 10,200 mt. Most of the "other rockfish" harvest since the FMP was implemented has been by foreign nations, but these nations did not target on "other rockfish" for fear of premature closures of their fisheries. Since foreign fishing is allowed only seaward of 12 miles from the baseline, few catch data are available for that part of the management unit shoreward of 12 miles. Similarly, few data exist about stock conditions of the nearshore demersal species of current interest to domestic fishermen. Results of the 1984 trawl survey did not indicate that any of them were present in significant numbers. The average 1982–1984 bycatch harvest in the joint venture and foreign fisheries is about 1,500 mt with a 1984 harvest of only 700 mt. The Council considered the limiting effect that an OY equal to the bycatch would have on the developing domestic fisheries and established the OY at 5,000 mt, which is substantially higher than the bycatch level so as not to limit that growth.

Atka mackerel—The 1984 survey indicated that the total biomass for Atka mackerel is 39,000 mt, of which 38,000 mt is located in the Western Area and 1,000 mt in the Central Area. Length-frequency information suggests that the population consists mostly of large fish. Recruitment in the Central Area appears nonexistent. The absence of catches in the Eastern Area indicates that stocks are not sufficiently abundant to support a commercial fishery. The low abundance of Atka mackerel may be due to a westward shift in the distribution of stocks and not to excessive fishing mortality. The Council reviewed the SSC recommendation for the Western Area to set the exploitation rate between 10 and 15 percent of 38,000 mt, which would provide an OY between 3,800 mt and 5,700 mt. Since the current OY for the Western Area of 4,678 mt falls within this range, the Council opted not to change the OY. The Council recognized the reduced abundance of Atka mackerel in the Central and Eastern Areas and recommended that OYs be set only at bycatch levels. The Secretary concurred with this recommendation and has set the OYs in the Central and Eastern Regulatory Areas at 500 mt and 100 mt respectively.

Other Species—The OY for "other species" is reduced to 22,460 mt; the FMP sets this OY equal to 5 percent of the combined OYs for the "target species", which include those species for which OYs are reduced.

Apportionments of Optimum Yields

OYs for groundfish species in the Gulf of Alaska are established by the FMP. OYs are apportioned initially among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF) under §§ 611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves, equal to 20 percent of the OY for each species, are set aside for possible reapportionment to DAP and/or to JVP if these amounts prove inadequate.

Under §§ 611.92(a)(1) and 672.20(a)(2), the initial amounts of DAP and JVP are determined each year by the Regional Director. The DAP and JVP amounts must equal the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming year. These additional amounts reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extend to which increases in U.S. processing and harvesting will occur during the coming year. These projections are based on current available information, including industry surveys, market data, and stated intentions by representative for the U.S. fishing industry. The Secretary proposed initial apportionments (49 FR 44655, November 8, 1984) following tentative recommendations from the Council after its September 27–29, 1984, meeting. During its December 5–8, 1984, meeting the Council considered comments received and made final recommendations to the Secretary for the 1985 initial apportionments. The Council's recommendations, however, were made prior to the 1984 meeting of the commercial fishing industries of the United States and Japan, which was held December 9–12, 1984. In 1982 and 1983, these meetings had been held before the Council meeting. Discussions at the meetings were based on the U.S. policy of "fish and chips", under which foreign allocations are related to the efforts of foreign nations to foster development of the U.S. fishing industry. After the December 1984 meeting, the Alaska Pacific Seafood industry Coalition (Coalition) successfully negotiated an agreement with the Japanese industry that would provide for significant growth in all sectors of the Pacific Northwest and Alaska fishing industry. This agreement was inconsistent with apportionment recommendations made by the Council at the December meeting. The Council decided that, in view of the inconsistencies, it should review the result of the industry agreement and any other new information at its next meeting, February 5–8, 1985, in Sitka, Alaska.

As a result of this action, the Secretary concluded that action on the apportionments recommended at the December 1984 meeting would serve no useful purpose, since changes were anticipated at the February 1985 meeting. However, because § 672.20(a)(2) requires the Secretary to publish apportionments in the **Federal Register** before they may take effect, and because § 611.20(c) requires that the specifications of OY and initial estimates of U.S. harvests and TALFFs be published at the beginning of the relevant fishing year, the amounts published initially (49 FR 44655, November 8, 1984) were adopted as an interim measure and comments were invited until January 31, 1985 (50 FR 467,

January 4, 1985). Written comments responded to in this notice are those invited by these two notices.

Prohibited Species Catch Limits

Regulations implementing the FMP establish OYs for each groundfish category and apportion them among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). Only those groundfish amounts not needed by U.S. fishermen are eligible for apportionment to JVP and/or TALFF. However, joint ventures may still be conducted, because any catches of species having zero JVP may be kept on board U.S. catcher boats for subsequent sale as domestically processed product (DAP). When DAP limits are reached, no further joint venture fishing is allowed. Similarly if TALFF for any species is set at zero, no foreign fishing for those species is allowed in the affected area. This emergency interim rule establishes PSC limits for species having zero JVP and zero TALFF, which will allow joint venture trawl and foreign trawl fisheries for other species to continue. PSCs will not exceed each species' EY and will not result in overfishing.

Two species—sablefish and POP—will be fully utilized by U.S. fishermen during 1985 in DAP fisheries and JVP and TALFF are zero in each case. Furthermore, "other rockfish" will be fully utilized by U.S. fishermen during 1985 in DAP and JVP fisheries and TALFF is zero. This determination is based on (1) the results of a NMFS-conducted survey of the U.S. fishing industry's intent to harvest and process sablefish, POP, and "other rockfish"; (2) comments received by the Council at its December 5–8, 1984, meeting; and (3) the best available information on the condition of these stocks as determined by the Northwest and Alaska Fisheries Center, NMFS.

After considering testimony on the condition of these stocks from its SSC and Advisory Panel, the Council retained the existing OYs (50 FR 468, January 4, 1985) for sablefish but reduced the OYs for pollock, POP, "other rockfish", and "other species". The existing OYs, the reduced OYs, the EYs on which they are based, and the PSC limits are set forth by Regulatory Area in Table I above.

Under Sections 201(d)(2) and 204(b)(6)(B)(ii) of the Magnuson Act, no amounts of sablefish or POP are available for harvest in foreign fisheries (TALFF) or in joint ventures (JVP), because each will be fully utilized by U.S. fishermen. Further, no amount of "other rockfish" in available for foreign fisheries (TALFF), because the entire OY will be fully utilized by U.S. domestic processors (DAP). Any taking of the above species that would result in their mortality in excess of the OY would be inconsistent with the provisions of the FMP, which provides only for a harvest equal to the specified OY for any species category.

The FMP contains no provision to allow foreign vessels to receive any amount of the above species from U.S. catcher boats in joint ventures or to continue target fisheries that would take any amounts of them. Hence, no foreign fishery in the Gulf of Alaska could be allowed, and joint ventures might be terminated early, without an amendment to the FMP or an emergency regulation that would authorize the treatment of these species as prohibited species under § 611.13. This emergency regulation establishes allowable limits of PSCs and requires that such species be sorted promptly and returned to the sea with a minimum of injury, regardless of their condition, after allowing for sampling by an observer.

At its December 5–8, 1984, meeting the Council voted to set the OYs for Pacific cod, flounders, Atka mackerel, thornyhead rockfish, "other rockfish", squid, and "other species" equal to the sum of DAP and JVP up to specified maximum amounts, thereby setting TALFF at zero. The TALFF for pollock was set at zero, because the sum of the DAP and JVP for pollock equals the previously specified OY. These actions would have effectively eliminated foreign fishing in the Gulf of Alaska. The Council's decisions were made before the 1984 meeting discussed above between the Coalition and the Japanese fishing industry.

The Secretary considered the Coalition's negotiated agreement and the unprecedented opportunity for the U.S. fishing industry to achieve significant growth in 1985. He subsequently recommended to the Secretary of State that 4,500 mt of Pacific cod and TALFF amounts of certain bycatch species which will not be fully utilized by U.S. fishermen be allocated to Japan. In so doing, he also established PSCs for sablefish, POP, and "other rockfish" that would be necessary to accommodate the bycatches expected in a longline fishery for Pacific cod. This action was done by emergency regulations that were originally in effect for 90 days (50 FR 3911, January 29, 1985), and subsequently extended for five days (50 FR 16705, April 29, 1985).

At its February 4–7, 1985, meeting, the Council considered the future of foreign access to groundfish in the Gulf of Alaska and reviewed the results of the U.S.-Japanese fishing agreements. The Council voted to allow TALFFs for pollock and Pacific cod of 25,000 mt and 10,000 mt, respectively. This action increases the TALFF for Pacific cod in the Central and Western Areas by transferring 100 mt from the reserve into each area to allow for additional bycatch in the foreign trawl fishery. The Council recommend that the Regional Director apportion additional amounts to TALFF if he determines that, as the fishing year progresses, U.S. fishermen will not harvest the entire OY.

The Council recognized that some amounts of sablefish and POP would be taken incidentally in joint venture trawl operations and that some sablefish, POP, and "other rockfish" would be taken incidentally in foreign trawl operations. Both operations will be conducted in the Western and Central Regulatory Areas. (No joint venture trawl operations are planned in the Eastern Regulatory Area, nor have TALFFs been established in this area.) Therefore, this emergency interim rule is needed to minimize the incidental catch of these species in fishing operations for target groundfish species (principally pollock).

The Assistant Administrator for Fisheries, NOAA, concurs with the Council's action and recommends that the Secretary establish the PSCs listed in Table I above. Each foreign nation will be allocated PSCs in proportion to its TALFF. If a foreign nation takes its share of a PSC in a regulatory area for which the PSC is specified, further fishing by vessels of that nation will be prohibited in that area for the remainder of the fishing year. If the joint venture share of PSC is reached in a regulatory area, further receipt of groundfish by foreign vessels from U.S. vessels at sea in that regulatory area will be prohibited for the remainder of the fishing year.

Each PSC was calculated from estimates of 1984 bycatch rates achieved by (1) foreign trawl vessel types that had experienced low bycatches and (2) foreign longline vessels fishing for groundfish. The Council selected the rates experienced by surimi trawlers, because they were the lowest among the foreign trawl vessels fishing in the Western and Central Regulatory Areas in 1984. PSC rates for joint venture fisheries represent the average of the PSC rates experienced among joint venture companies in 1984. All PSCs must be treated in accordance with the prohibited species requirements of § 611.13. A U.S. vessel engaged in joint ventures may deliver its catch of sablefish and POP for sale as DAP

unless the OY for these two species has been reached. Such landings would be counted against DAP and not against PSC. Only when sablefish and POP are discarded at sea after being delivered to, and sorted on, foreign processors will these landings be counted against the PSC.

The OY reductions are based on the best available information on status of stocks. The PSCs are based on recent catch rates experienced by joint venture and foreign fisheries and on reevaluations of EYs for each species. The Alaska Region generally uses EY as a guide to prevent overfishing a fish stock. The sablefish EY is 33 percent higher than OY in each regulatory area. The POP EY is 50 and 13 percent higher than the respective OYs in the Western and Central Regulatory Areas. The sablefish and POP OYs are set low to hasten stock rebuilding to maximum levels. The sablefish OYs are based on those stocks below 300 meters in water depth, where larger, more commercially valuable fish are found that are sought by the commercial fishery. The sablefish PSC being made available will be taken from water depths where the joint venture and foreign longline and trawl fisheries are conducted, i.e., 300 meters and shallower. Sablefish at these depths are small and are excluded in calculations of OYs. The EYs for POP are also higher than the OYs in order to promote rebuilding of this species group. The EY for "other rockfish" (a groundfish category that includes about 25 pelagic and benthic species) is largely unknown; about 1,500 mt of rockfish have been caught during 1982–1984 in the groundfish trawl fisheries, incidentally, mostly on the continental slope. The Council may direct its Plan Team to analyze this rockfish category further and recommend management changes.

Additional Public Comments Requested

Under §§ 611.92(c)(1)(ii) and 672.20(c), the Secretary finds that early reapportionment of reserves to TALFF and/or DAP and JVP is necessary to assure the orderly conduct of foreign fisheries; that affording a prior opportunity for public comment is impracticable and contrary to the public interest, and that the reapportionments should go into effect immediately. In addition to reducing OYs and establishing PSC limits, this action reapportions reserves of pollock, Pacific cod, flounders, Atka mackerel, thornyhead rockfish, squid, and "other species" to TALFF and reapportions reserves of "other rockfish" to DAH as follows: pollock—25,000 mt and 12,871 mt to TALFF and JVP, respectively, in the Western/Central Area; Pacific cod—100 mt to TALFF in each of the Central and Western Areas; flounders—200 mt and 250 mt to TALFF in the Western and Central Areas, respectively; Atka mackerel—100 mt to TALFF in the Western Area; "other rockfish"—133 mt and 600 mt to JVP and DAP, respectively; thornyhead rockfish—50 mt to TALFF; squid—50 mt to TALFF; and "other species"—301 mt to TALFF. Comments are invited as specified under **DATES** of this notice. In light of any substantial comments received, the Secretary may issue a subsequent notice to either affirm, amend, or rescind the reserve reapportionments.

Public Comments Received

The Council received two letters of comments from the Fisheries Agency of the Government of Japan on the proposed initial apportionments as invited by the two notices. These comments are summarized and responded to below:

Comment 1. Changes in OYs for pollock, Pacific ocean perch, Atka mackerel, "other rockfish", and other species are not opposed, but the OY for Atka mackerel in the Central Regulatory Area should be set sufficiently high to allow at least 100 mt of bycatch TALFF.

Response: The OY for Atka mackerel is set at 500 mt in the Central Regulatory Area. Information received from 1984 data indicate that about 0.0009 mt of Atka mackerel is required to support each metric ton of groundfish caught in foreign fisheries. Thus, about 25 mt of Atka mackerel is needed to support a TALFF of about 27,000 mt. An initial 20 mt of Atka mackerel is being made available; another 100 mt is available in the reserve for possible reapportionment to TALFF if not needed by U.S. fishermen.

Comment 2. NMFS should not implement the Council's decision to set OY equal to DAH in the Gulf of Alaska for Pacific cod, flounders, thornyheads, squid, and other species, because the resulting TALFF for these species would be inconsistent with the U.S. industry's commitment to Japan to "assist in securing a reasonable TALFF for bottomfish species where a surplus exists."

Response: At its February 1985 meeting, the Council reversed its decision made at its December 1984 meeting and established TALFF's for the above species to provide for a target hook-and-line fishery for Pacific cod and needed bycatches to support target Pacific cod and pollock fisheries.

Comment 3. The JVP estimate for pollock proposed by the Council should be reduced to reflect the results of the U.S.-Japan industry-to-industry negotiations and to deduct JVP amounts included for phantom ventures for which no permit applications have been submitted. At least 92,000 mt of pollock is available for apportionment to TALFF; at least 50,000 mt should be allocated to Japan for its directed fishery. The sum of reserves plus TALFF results in substantial surpluses for a number of other species that should be apportioned to TALFF and allocated as soon as practicable in order to allow normal fishing operations in the Gulf of Alaska. A sufficient amount of Pacific cod, 1,500 mt in the Central Area and 750 mt in the Western Area, must be allocated to Japan as a bycatch to support its trawl fishery.

Response: The joint venture catch to date is about 220,000 mt; therefore, the Council's recommended apportionment to JVP of 212,500 mt has proved too conservative. On the basis of 1984 Pacific cod bycatch rates experienced by Japan's surimi trawlers, only 0.0048 mt of Pacific cod is needed to support each metric ton of groundfish taken by a surimi trawler, the class of vessel expected to be used by Japan in the Gulf of Alaska trawl fishery. At this rate, only 120 mt of Pacific cod in the Western and Central areas combined would be required to support a pollock TALFF of 25,000 mt. Although the U.S. Department of State makes allocations to foreign nations, NMFS recommends to the Department of State the amounts of bycatches needed by foreign vessels to conduct orderly fisheries. However, the Government of Japan is responsible for apportioning from its national allocations whatever amounts are needed for bycatches by the different components of its fleets.

Comment 4. Although an emergency rule to set prohibited species catch limits for sablefish, Pacific ocean perch, "other rockfish", Atka mackerel, and "other species" is not necessary in the event such limits are established, then Japan believes the following limits should be established by regulatory area: sablefish—Western, 130 mt and Central, 210 mt; Pacific ocean perch—Western, 110 mt and Central, 230 mt; Atka mackerel—Western, 50 mt and Central, 100 mt; and "other rockfish"—Gulf-wide, 470 mt.

Response: Atka mackerel is not a PSC species. The PSC amounts recommended by the Council for sablefish, POP, and "other rockfish", set forth at § 672.21, are based on observed rates obtained from the actual performance of the foreign fisheries during 1984. The Secretary considers

these PSCs to be adequate to support the foreign fisheries.

Classification

The Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. The new OYs implemented by this rule are based on the best available information that takes into account the biomasses determined by 1984 trawl and/or hydroacoustic surveys. Should fishing be allowed to proceed to the current OYs specified by the FMP, overfishing could occur. Establishing PSCs by this action will prevent overfishing while avoiding the disruption in foreign fishing and wastage of other groundfish that would otherwise occur. It will thus support the developing domestic groundfish fishery in accordance with the industry agreement. It will also constrain joint venture fisheries to bycatches only of sablefish and POP, thus allowing wholly domestic fishermen to fully utilize the OYs for these species.

The Assistant Administrator finds that promulgation of this rule on an emergency basis for the reasons given below makes it impracticable and contrary to the public interest to provide prior notice and an opportunity for public comment, or to delay its effective date for 30 days. Early implementation of the rule is desirable, because it conveys a benefit to the fishing industry, which needs to plan its operations on the best available information. The Assistant Administrator recognizes that the public has had opportunity to comment on the OY changes at the Council's December 1984 meeting when this subject was discussed during public hearings. Traditional foreign bottom trawl fishing begins on June 1, following the December 1–May 31 ban on the use of bottom trawl gear. Consequently, foreign fishing operations would be disrupted if their fishing season were delayed substantially. Also, many agreements for joint ventures and purchases of U.S.-processed fish products were reached between the Japanese and U.S. fishing industries on the premise that foreign fishing would be allowed in the Gulf of Alaska. Foreign nations may find that a lengthy delay in their directed operations would cause them to forgo all fishing in the Gulf of Alaska for the remainder of 1985, which would jeopardize joint venture and purchasing agreements. Accordingly, the portions of these regulations which establish a PSC to prevent disruption of foreign fishing for species other than species having zero JVP and zero TALFF involve a "foreign affairs function of the United States" and thus are exempt from the provisions of 5 U.S.C. 553. Delay for a comment period could also cause severe socioeconomic harm for both the U.S. and foreign fishing industries. Since the OY for sablefish has been reached in the Central Regulatory Area and will soon be reached in the Western Regulatory Area, severe economic harm could be incurred by both wholly domestic and joint venture fishermen if this emergency rule were delayed.

The Director, Alaska Region, NMFS, prepared environmental assessments (EAs) for this action and concluded that no significant impact on the human environment will result from its implementation. Copies of the EAs are available from the address above.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by Alaska's Office of Management and Budget under section 307 of the Coastal Zone Management Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment. As provided by section 608 of that Act, this emergency rule is being promulgated in response to an emergency that makes preparation of an initial regulatory flexibility analysis under section 603 and timely compliance with the section 604 requirements for a final regulatory flexibility analysis impracticable.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: July 17, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, Parts 611 and 672 are amended to read as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.92, paragraphs (b)(2), (c)(2)(i) (A), (D), and (E), (c)(2)(ii) (A), (B), and (C), (e)(3)(ii), and (f)(2)(i) are suspended from July 17, 1985 until October 15, 1985. New paragraphs (b)(5), (c)(2)(i) (F), (G), (H), and (I), (c)(2)(ii) (D), (E), (F), (G), and (H), and (i) are added, effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

* * * * *

(b) * * *

(5) "Target species" are the species that are commercially important and are generally targeted on by the foreign and domestic groundfish fisheries. They include pollock, Pacific cod, flounders, Pacific ocean perch, "other rockfish", sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept. Pacific ocean perch, "other rockfish", and sablefish are prohibited to foreign vessels, and must be treated in accordance with paragraph (i) of this section and § 611.13 of this part.

(c) * * *

(2) * * *

(i) * * *

(F) When vessels of a nation have caught their applicable share of a prohibited species catch limit provided for by paragraph (i) of this section for sablefish, Pacific ocean perch, or "other rockfish", fishing by vessels of that nation is prohibited in that regulatory area.

(G) When vessels of a nation have caught the amount of the allocation of that nation for any groundfish species or species group in any regulatory area, fishing for groundfish using other than longline gear in that regulatory area by vessels of that nation is prohibited, even if allocations of other species for that nation in the regulatory area have not been reached or the nation has not received a notice issued under

§ 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area.

(H) When the area allocation of any groundfish species or species group other than Pacific cod is reached, unless the fishery is closed under other provisions of this section, any subsequent catch of that species in that area by vessels fishing with longline gear will be considered catch of a prohibited species and treated in accordance with the provisions of § 611.13. Catches of those species or species groups in the target and "other species" categories that become prohibited species must be recorded and reported as required by § 611.9.

(I) A notice of closure issued under paragraph (c)(2) of this section will not apply to any receipt or processing by foreign vessels of U.S.-harvested fish authorized by a permit issued by the Department of Commerce under the Act, unless the Secretary has issued a notice prohibiting through December 31 further receipt of groundfish from U.S. vessels under paragraph (c)(2)(ii)(G) of this section.

(ii) * * *

(D) OY for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section unless a prohibited species catch limit for that species, species group, or species category has not yet been reached; except that if the OY for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31.

(E) TALFF for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district, except that if the TALFF for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31.

(F) The allocation of a nation for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 in that regulatory area or district, fishing using trawl gear for groundfish by vessels of that nation; and retention of that species, species group, or species category by vessels of that nation using longline gear. However, if a national allocation for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels of that nation through December 31.

(G) The prohibited species catch limit share of a nation for sablefish, Pacific ocean perch, or "other rockfish" in a regulatory area: the Secretary will issue a notice prohibiting through December 31 further fishing by vessels of that nation in that regulatory area.

(H) The prohibited species catch limit for U.S. vessels engaged in joint venture fisheries for sablefish and Pacific ocean perch in a regulatory area: the Secretary will issue a notice prohibiting through December 31 further receipt of groundfish by foreign vessels from U.S. vessels in that regulatory area.

* * * * *

(i) *Prohibited species catch (PSC) limits.* (1) When during any fishing year the vessels of a nation have taken incidentally that nation's current share of the PSC for sablefish, Pacific ocean perch, or "other rockfish" in a regulatory area as determined under paragraph (i)(2) of this section, the entire regulatory area will be closed to vessels of that nation for the remainder of the fishing year or until an increase in that nation's groundfish allocation results in a corresponding increase in its current share of PSC for sablefish, Pacific ocean perch, or "other rockfish" not to exceed the total amounts specified below and in § 672.21 of this chapter.

PSCs by Regulatory Area

[Metric tons]

Sablefish:	
Western	140
Central	31
Pacific ocean perch:	
Western	30
Central	16
Rockfish: Entire gulf	25

(2) At any time during the fishing year the total PSC available to foreign nations in a regulatory area for sablefish, Pacific ocean perch, or "other rockfish" is equal to amounts set forth in § 672.21 of this chapter.

(3) A nation's current share of a PSC for sablefish, Pacific ocean perch, or "other rockfish" at any time during the fishing year is determined by multiplying the PSC set forth in § 672.21 of this chapter by the ratio of that nation's current allocation of groundfish to the current groundfish TALFF plus the current pollock reserve, according to the following equation:

Nation's PSC share = PSC × [Nation's current groundfish allocation/[current TALFF + current pollock reserve]]

Hence, the total PSCs set forth in § 672.21 of this chapter will not be distributed to nations until (1) all the pollock reserve is reduced to zero, by apportioning it either to DAH or to TALFF; and (2) all TALFF is apportioned to nations.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. The authority citation for Part 672 continues to read as follows:

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

4. In § 672.20, Table 1 at paragraph (a) is revised and paragraph (a)(4) is added, to be effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 672.20 Optimum yield.

(a) * * *

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), INITIAL RESERVE AND ADJUSTMENTS TO RESERVE BY THIS ACTION, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY = DAH + RESERVE + TALFF; DAH = DAP + JVP

Species/species code area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Pollock 701:						
Western/Central	305,000	256,871	44,371	199,629	61,000	0
				+12,871	−37,871 − 25,000	
				now 212,500	now 23,129	now 25,000
Eastern	16,600	13,280	13,280	0	3,320	0
Total	321,600	270,151	57,651	212,500	now 26,449	25,000
Pacific cod 702						
Western	16,560	5,748	2,539	3,209	3,31	7,500
					−100	+100
					now 3,212	now 7,600

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), INITIAL RESERVE AND ADJUSTMENTS TO RESERVE BY THIS ACTION, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY = DAH + RESERVE + TALFF; DAH = DAP + JVP—Continued

Species/species code area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Central	33,540	24,332	19,901	4,431	6,708 −100	2,500 +100 now 2,600
Eastern	9,900	7,920	7,920	0	1,980	0
Total	60,000	38,000	30,360	7,640	11,800	10,200
Flounders 129:						
Western	10,400	8,320	7,398	922	2,080 −200	0 +200 now 200
Central	14,700	11,760	8,292	3,468	2,940 −250	0 +250 now 250
Eastern	8,400	6,720	6,720	0	1,680	0
Total	33,500	26,800	22,410	4,390	now 6,250	now 450
Pacific ocean perch[2] 780:						
Western	1,302	1,302	1,302	0	0	0
Central	3,906	3,906	3,906	0	0	0
Eastern	875	875	875	0	0	0
Total	6,083	6,083	6,083	0	0	0
Sablefish[3] 703:						
Western	1,670	1,670	1,670	0	0	0
Central	3,060	3,060	3,060	0	0	0
West Yakutat	1,680	1,680	1,680	0	0	0
East Yakutat	850–1,135	850–1,135	850–1,135	0	0	0
Southeast Outside	470–1,435	470–1,435	470–1,435	0	0	0
Total	7,330–8,980	7,330–8,980	7,330–8,980	0	0	0
Atka Mackerel 297:						
Western	4,678	3,742	50	3,692	936 −100 now 836	0 −100 now 100
Central	500	380	350	30	100	20
Eastern	100	80	80	0	20	0
Total	5,278	4,202	480	3,722	now 956	now 120
Other rockfish[4] 849:						
Gulf-wide	5,000	4,000 +733 now 4,600	4,000 +600 now 133	0 +133 now 267	0 −733 0	0 0
Thornyhead rockfish 749:						
Gulf-wide	3,750	3,000	2,990	10	750 −50 now 700	0 0 now 50
Squid 509:						
Gulf-wide	5,000	4,000	3,990	10	1,000 −50 now 950	0 +50 now 50
Other species[5] 499:						
Gulf-wide	22,460	17,944	16,544	1,400	4,516 −325 now 4,191	0 0 325

[1] See figure 1 of § 672.20 for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[4] The category "Other rockfish" includes all fish of the genus *Sebastes* except the catetory "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).
[5] The category "Other species" includes sculpins, sharks, skates, eulachon smelts, capelin, and octopus. The OY for "Other species" is equal to 5% of the target species.

(4) If a joint venture prohibited species catch limit for sablefish or Pacific ocean perch for the Western or Central Regulatory Area, as set forth in § 672.21, is taken by U.S. vessels while fishing in joint ventures for delivery to foreign vessels, that entire regulatory area will be closed to further delivery by U.S. vessels of groundfish to foreign vessels.

* * * * *

5. A new § 672.21 is added, effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 672.21 Catch limitations.

Prohibited species catch (PSC) limits. PSC limits in the regulatory areas of the Gulf of Alaska are set forth in Table 2.

TABLE 2.—PSC'S (MT) FOR SABLEFISH, PACIFIC OCEAN PERCH, AND OTHER ROCKFISH IN JOINT VENTURE (JVP) AND FOREIGN (TALFF) FISHERIES

Species	Regulatory area		Gulf-wide
	Western	Central	
Sablefish:			
JVP	245	545	
TALFF	140	31	

TABLE 2.—PSC'S (MT) FOR SABLEFISH, PACIFIC OCEAN PERCH, AND OTHER ROCKFISH IN JOINT VENTURE (JVP) AND FOREIGN (TALFF) FISHERIES—Continued

Species	Regulatory area		Gulf-wide
	Western	Central	
Pacific ocean perch:			
JVP	53	98	
TALFF	30	16	
Rockfish: TALFF			25

[FR Doc. 85-17376 Filed 7-17-85; 5:00 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 140
Monday, July 22, 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 AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 801 and 802

Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposal rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) reviewed and proposes to revise the regulations under the United States Grain Standards act, as amended, concerning the Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems. FGIS proposes to incorporate by reference the applicable requirements of National Bureau of Standards' (NBS) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1985 edition (Handbook 44) and NBS Handbook 105–1,"Specifications and Tolerances for Field Standard Weights," (Handbook 105–1); to clarify the scope and format of the requirements of the current Parts 801 and 802. In addition, the proposal would revise the tolerances for scales near-infrared reflectance (NIR) analyzers, and Kjeldahl analyses, so as to update the regulations to reflect current commercial standards. The proposed changes would condense and reduce the text of the regulations and would simplify the overall language to facilities the use of the regulations.

DATE: Comments must be submitted on or before September 20, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above,telephone (202) 382–1938.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed action has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Regulatory Review

Part 801 of the regulations, *Official Performance Requirements for Grain Inspection Equipment*, prescribes specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing official services.

Part 802 of the regulations, *Official Performance and Procedural Requirements*, sets forth certain procedures, specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services.

This review of ther regulations concerning Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling System (7 CFR Part 801.1–801.12 and 7 CFR Part 802.0–802.13) included a determination of continued need for and consequences of the regulations. An objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS had determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. However, the regulations, particularly Part 802, contain requirements that are also covered in NBS Handbooks 44 and 105–1 and in the FGIS Weighing Handbook. In order to condense and reduce the text of the regulations, thereby eliminating unnecessary duplication, FGIS proposes, in Part 802, to incorporate by reference NBS handbooks 44 and 105–1. Additionally, certain information contained in the regulations would be deleted but would continue to appear as provisions set forth in the FGIS Weighing Handbook. This would reduce further the text of the regulations as appropriate and simplify and facilitate use of the regulations. The sections affected in whole or part appear generally in §§ 802.2 (b) and (p); 802.3(j); 802.4(a); 802.9(d), (e), and (g); 802.10; 802.11 (a), (c), (d), and (f); 802.12; 802.13 (c), (d) (e), and (f). Specifically FGIS proposes to revise:

1. Section 801.2, *Meaning of terms*, by removing the definition for balances because the tolerances for balances are proposed to be removed from 7 CFR Part 801 so as to consolidate all the tolerances for balances in one Part of the regulations; renumbering the remaining definitions, as appropriate; changing the definition title *Master inspection equipment* to *National standard equipment* and the definition title *Grain divider* to *Divider* to more clearly describe the equipment; adding a definition for *Transfer standard* for clarity; and changing certain definitions by simplifying, clarifying, and removing unnecessary language to promote a better understanding of the requirements.

2. Section 801.3, *Tolerances for balances*, by removing the entire section because these tolerances are proposed to be included in 7 CFR Part 802 so as to consolidate all tolerances for balances in one Part of the regulations.

3. Sections 801.4, *Tolerances for barley pearlers*, 801.5, *Tolerances for dockage testers*, 801.6, *Tolerances for diverter-type mechanical samplers*, 801.7, *Tolerances for moisture meters*, 801.9, *Tolerances for sieve devices*, 801.10, *Tolerances for test weight*

apparatuses, and 801.11, *Tolerances for dividers*, by consolidating the footnote references into the body of the tolerances and clarifying the scope of the tolerances by stating, where appropriate, the type of grain and standard used to test the equipment. These proposed revisions will facilitate the use of the regulations. The present §§ 801.4–801.7 and 801.9–801.11 would be renumbered as §§ 801.3–801.6 and 801.8–801.10, respectively.

4. Section 801.7, *Tolerances for moisture meters*, by revising the tolerance title 'FGIS/Master Standard meter" to "FGIS Standard meter" to indicate more clearly that the FGIS Master meter is the reference standard against which the FGIS Standard meter is tested.

5. Section 801.8, *Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses*, by revising for accuracy the tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses. The proposed tolerances have been used on a trial basis since May 1982 to improve accuracy. All officially approved NIR analyzers and Kjeldahl laboratories have been tested using the proposed tolerances and found to be capable of meeting the proposed tolerances. The proposal would update the regulations to reflect current commercial standards. This section will be renumbered as § 801.7.

6. Section 801.10, *Tolerances for test weight apparatuses*, by revising the tolerance titles for the test weight apparatuses to clarify the manner in which these tolerances are to be applied to electronic test weight computer/scales.

7. Section 801.11, *Tolerances for dividers*, by combining the tolerances for dividers and restating the tolerance as a percentage instead of the present weight basis in order to simplify its use and clarify its application. The present tolerances are only applicable to two-way dividers. In the last two years, however, the Service approved several models of three- and four-way dividers using tolerances based upon a mathematical extrapolation of the present two-way divider tolerances. The proposed tolerances would reflect such mathematical extrapolations.

8. Section 801.12, *Related design requirement*, by revising the related design requirements to simplify and clarify its language in order to facilitate their use. This section would be renumbered as § 801.11.

9. Sections 802.1, *Meaning of terms*, 802.2, *General requirements*, 802.3, *Design of indicating and recording elements and of recorded representations*, 802.4, *Design of balance, tare, dampening, and arresting mechanisms*, 802.5, *Design of weighing elements*, 802.6, *Design of weighbeams and poises*, 802.7, *Marking requirements*, 802.8 *Installation requirements*, 802.9, *User requirements*, 802.11, *Weight-indicating and weight-recording devices and representations*, and 802.12, *Railroad track scales; additional requirements*, by removing and incorporating by reference the requirements of the 1985 edition of NBS Handbooks 44 and 105–1, with the exception of those Handbook 44 requirements which do not pertain to grain scales or are different from FGIS requirements under the U.S. Grain Standards Act which generally are more stringent for FGIS program purposes than NBS Handbook 44; e.g., grain hooper scale tolerances, vehicle and track scale class requirements and the minimum test weight requirements for vehicle and track scales. These tolerances and minimum weight requirements would continue to appear in Part 802, as revised. Since the FGIS regulations were approved in 1980, many of the Handbook 44 requirements have been revised and expanded to encompass the requirements necessary for official grain weight certification. FGIS has discussed adopting the applicable requirements of NBS Handbook 44 with the FGIS Advisory Committee and grain industry organizations and determined that the requirements in the 1985 edition of Handbook 44 and 105–1, pertaining to the scales under the jurisdiction of FGIS, are substantially the same as the present FGIS regulations. Therefore, FGIS has determined that these regulations should be incorporated by reference into the Code of Federal Regulations in paragraph (a) of revised § 802.0. This incorporation by reference will be submitted for approval to the Director of the Federal Register at the final rule stage.

10. Sections 802.0, *Applicability*, 802.10, *Tolerances and sensitivity requirements*, and 802.13, *Test standards and counterpoise weights*, by simplifying, clarifying, condensing, and removing unnecessary language to facilitate the use of the regulations; and redesignating § 802.10 as § 802.1, § 802.13(a) as § 802.2 (a) and (b), and § 802.13(g) as § 802.3. In addition, certain track scale requirements pertaining to obsolete equipment and the requirements for monitoring test weights during movement to and from storage were removed because they are no longer necessary or applicable.

List of Subjects in 7 CFR Parts 801 and 802

Administrative practice and procedure, Export, Grain, Incorporation by reference.

Accordingly, it is proposed that 7 CFR Parts 801 and 802 be revised as follows:

PART 801—OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

Sec.

801.1 Applicability
801.2 Meaning of terms
801.3 Tolerances for barley pearlers
801.4 Tolerances for dockage testers
801.5 Tolerances for diverter-type mechanical samplers
801.6 Tolerances for moisture meters
801.7 Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses
801.8 Tolerances for sieves
801.9 Tolerances for test weight appartuses
801.10 Tolerances for dividers
801.11 Related design requirements

The authority citation for Part 801 reads as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*).

1. Sections 801.1 and 801.2 would be revised as follows:

§ 801.1 Applicability.

The requirements set forth in this Part 801 describe certain specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing inspection services under the Act.

§ 801.2 Meaning of terms

(a) *Construction.* Words used in the singular form in this part shall be considered to imply the plural and vice versa, as appropriate.

(b) *Definitions.* The definitions of terms listed in the Part 800 shall have the same meaning when the terms are used in this Part 801. For the purpose of this part, the following terms shall have the meanings given for them below.

(1) *Avoirdupois weight.* A unit of weight based on a pound of 16 ounces.

(2) *Barely pearler.* An approved laboratory device used to mechanically dehull kernels of barley or other grain.

(3) *Deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the individual test result from the equipment that is being tested and (ii) the reference standard or the individual test result from the standard (or National standard) equipment, as applicable.

(4) *Direct comparison method.* An equipment testing procedure wherein

transfer standards are tested at the same time and place to compare the performance of two or more units of the same inspection equipment. One unit of the equipment used in the test shall be standard inspection equipment. (See also sample exchange method.)

(5) *Diverter-type mechanical sampler (primary).* An approved device used to obtain representative portions from a flowing stream of grain.

(6) *Diverter-type mechanical sampler (secondary).* An approved device used to subdivide the portions of grain obtained with a diverter-type mechanical sampler (primary).

(7) *Divider.* An approved laboratory device used to mechanically divide a sample of grain into two or more representative portions.

(8) *Dockage tester.* An approved laboratory device used to mechanically separate dockage and/or foreign materials from grain.

(9) *Maintenance tolerance.* An allowance established for use in determining whether inspection equipment should be approved for use in performing official inspection services.

(10) *Mean deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the average of the test results from the equipment that is being tested and (ii) the reference standard or the average of the test results from the standard (or National standard) equipment, as applicable.

(11) *Metric weight.* A unit of weight based on the kilogram of 1,000 grams.

(12) *Moisture meter.* An approved device used to indicate directly or through conversion and/or correction tables the mositure content of grain including cereal grains and oil seeds.

(13) *National standard inspection equipment.* A designated approved unit of inspection equipment used as the reference in determining the accuracy of standard inspection equipment.

(14) *Official inspection equipment.* Equipment approved by the Service and used in performing official inspection services.

(15) *Sample exchange method.* An equipment testing procedure wherein transfer standards are tested to compare the performance of two or more units of the same inspection equipment installed at different locations. One unit of the equipment used in the test shall be standard inspection equipment. (See also direct comparison method.)

(16) *Sieves.* Approved laboratory devices with perforations for use in separating particles of various sizes.

(17) *Standard inspection equipment.* An approved unit of inspection equipment that is designated by the Service for use in determining the accuracy of official inspection equipment.

(18) *Test weight.* The avoirdupois weight of the grain or other material in a level-full Winchester bushel.

(19) *Test weight apparatus.* An approved laboratory device used to mechanically measure the test weight of a sample of grain.

(20) *Transfer standard.* The medium by which traceability is transferred from one inspection equipment standard unit to another unit.

(21) *Winchester bushel.* A container that has a capacity of 2,150.42 cubic inches (32 dry quarts).

§ 801.3 [Removed]

2. Section 801.3 would be removed.

3. Section 801.4 would be redesignated as § 801.3 and revised:

§ 801.3 Tolerances for barley pearlers.

The maintenance tolerances for barley pearlers used in performing official inspection services shall be:

Item	Tolerance
Timer switch	0 to 60 seconds ±5 seconds, deviation from standard clock. 61 seconds to 90 seconds ±17 seconds, deviation from standard clock. Over 90 seconds ±10 seconds, deviation from standard clock.
Pearled portion	±1.0 gram, mean deviation from standard barley pearler using barley.

4. Section 801.5 would be redesignated as § 801.4 and revised:

§ 801.4 Tolerances for dockage testers.

The maintenance tolerances for dockage testers used in performing official inspection services shall be:

Item	Tolerance
Air separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Riddle separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Sieve separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Total separation	±0.15 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.

5. Section 801.6 would be redesignated as § 801.5 and revised:

§ 801.5 Tolerance for diverter-type mechanical samplers.

The maintenance tolerances for diverter-type mechanical samplers (primary, or primary and secondary in combination) used in performing official inspection services shall be ±10 percent, mean deviation from standard sampling device using corn or the same type of grain that the system will be used to sample.

6. Section 801.7 would be redesignated as § 801.6 and revised:

§ 801.6 Tolerances for moisture meters.

The maintenance tolerances for moisture meters used in performing official inspection services shall be:

(a) *FGIS standard meters.*

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.
Mid	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.
High	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.

(b) All other than FGIS standard meters.

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
Mid	± 0.10 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
High	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.

7. Section 801.8 would be redesignated as § 801.7 and revised:

§ 801.7 Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses.

(a) *NIR.* The maintenance tolerance for NIR analyzers used in performing official inspection services shall be ±0.15 percent, mean deviation from standard Kjeldahl using wheat.

(b) *Kjeldahl.* The maintenance tolerance for Kjeldahl analyses used in performing official services shall be ±0.15 percent, standard deviation

8. Section 801.9 would be redesignated as § 801.8 and revised:

§ 801.8 Tolerances for sieves.

The maintenance tolerances for sieves used in performing official inspection services shall be:

Sieve description	Tolerance	
	Direct comparison	Sample exchange
.064 x ⅝ inch oblong	±0.2 percent, mean deviation from standard sieve using wheat.	±0.3 percent, mean deviation from standard sieve using wheat.
5/64 x ¾ inch slotted	±0.3 percent, mean deviation from standard sieve using barley.	±0.5 percent, mean deviation from standard sieve using barley.
6/64 x ¾ inch slotted	±0.5 percent, mean deviation from standard sieve using barley.	±0.7 percent, mean deviation from standard sieve using barley.
7/64 x ¾ inch slotted	±0.7 percent, mean deviation from standard sieve using barley.	±1.0 percent, mean deviation from standard sieve using barley.

9. Section 801.10 would be redesignated as § 801.9 and revised:

§ 801.9 Tolerances for test weight apparatuses.

The maintenance tolerance for test weight per bushel apparatuses shall be:

Item	Tolerance
Beam/scale accuracy	±0.10 pound per bushel at any reading, deviation using test weights.
Overall accuracy	±0.15 pound per bushel, mean deviation from standard test weight apparatus using wheat.

10. Section 801.11 would be redesignated as § 801.10 and revised:

§ 801.10 Tolerance for dividers.

The maintenance tolerance for dividers shall be ±1.0 percent, mean deviation from target value using wheat.

11. Section 801.12 would be redesignated as § 801.11 and revised:

§ 801.11 Related design requirements.

(a) *Suitability.* The design, construction, and location of official sampling and inspection equipment and related sample handling systems shall be suitable for the official sampling and inspection activities for which the equipment is to be used.

(b) *Durability.* The design, construction, and material used in official sampling and inspection equipment and related sample handling systems shall assure that, under normal operating conditions, operating parts will remain fully operable, adjustments will remain reasonably constant, and accuracy will be maintained between equipment test periods.

(c) *Marking and identification.* Official sampling and inspection equipment for which tolerances have been established shall be permanently marked to show the manufacturer's name, initials, or trademark; the serial number of the equipment; and the model, the type, and the design or pattern of the equipment. Operational controls for mechanical samplers and related sample handling systems, including but not limited to pushbuttons and switches, shall be conspicuously identified as to the equipment or activity controlled by the pushbutton or switch.

(d) *Repeatability.* Official inspection equipment when tested in accordance with §§ 800.217 and 800.219 shall, within the tolerances prescribed in §§ 801.3 through 801.10, be capable of repeating its recorded results when the equipment is operated in its normal manner.

(e) *Security.* Mechanical samplers and related sample handling systems shall provide a ready means of sealing to block unauthorized adjustments, removal, or changing of component parts or timing sequence without removing or breaking the seals; and otherwise be designed, constructed, and installed in a manner to prevent deception by any person.

(f) *Installation requirements.* Official sampling and inspection equipment and related sample handling systems shall be installed (1) at a site approved by the Service, (2) according to the manufacturer's instructions, and (3) in such a manner that neither the operation nor the performance of the equipment or system will be adversely affected by the foundation, supports, or any other chasracteristic of the installation.

PART 802—OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Sec.

802.0 Applicability.
802.1 Tolerance requirements.
802.2 Test standards and counterpoise weights.
802.3 Qualified metrology laboratories

The authority citation for Part 802 reads as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*)

§ 802.0 Applicability.

(a) The requirements set forth in this Part 802 describe certain specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services and inspection services under the Act. All scales used for official grain weight and inspection certification shall meet applicable requirements contained in the FIGS Weighing Handbook; the General Code, Scale Codes, Automatic Bulk Weighing Systems Code and the Weights Code of the 1985 edition of National Bureau of Standard's (NBS) Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices" (Handbook 44); and NBS Handbook 105–1, "Specifications and Tolerances for Field Standard Weights" (Handbook 105–1), which are hereby incorporated by reference pursuant to the provisions of 5 U.S.C. 552(a), with the exception of the Handbook 44 requirements listed in paragraph (b). The materials in Handbooks 44 and 105–1 are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.** The NBS Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20403. These are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 "L" Street, NW., Washington, D.C. 20408.

(b) The following Handbook 44 requirements are not incorporated by reference.

Scales Code (2.20)

N.2—Recommended minimum test weights and test loads
N.2.1—Minimum test weight load for railway track scales
N.2.1.1—For coupled-in-motion tests
T.2.10—For railway track scales
T.3.7—For animal, livestock, crane, axle-load, hopper (other than grain hopper) and vehicle scales
T.3.7.1—For grain hopper scales
T.3.8.1–.4—For railway track scales
UR.1.1.7—For railway track scales only (selection requirements)

New Scales Code (2.20)

N.3—Recommended minimum test weights and test loads
N.3.1—Minimum test weight load for railway track scales
N.3.1.1—Test train

T.1.3—Vehicle, axle-load, livestock, railway track (weighing statically,) and hopper (other than grain hopper) scales
T.1.9—Railway track scales weighing in motion
T.N.3.6—In motion weighing
T.N.3.6.1–.4—In motion weighing

Automatic Bulk Weighing Systems Code (2.22)

T.3—Basic tolerance values

§ 802.1 Tolerances requirements.

(a) *Tolerance values.* The applicable tolerances are established as follows:

(1) *Official automatic bulk weighing systems and official grain hopper scales.* The basic maintenance tolerance shall be one-half pound per 1000-pounds of test load (.05 percent). The basic acceptance tolerance shall be the same as the maintenance tolerance.

(2) *Official vehicle and railroad track scales installed prior to January 1, 1986.* The basic maintenance tolerance shall be one pound per 1000-pounds of test load (.1 percent). The basic acceptance tolerance shall be one-half the basic maintenance tolerance.

(3) *Official vehicle and railroad track scales installed after January 1, 1986.* These scales shall comply with the requirements and tolerances established in Handbook 44 for accuracy class III scales.

(4) *Official portable platform scales and grain test scales.* These scales shall comply with the requirements and tolerances established in Handbook 44 for the appropriate accuracy class of scales.

(b) *Minimum tolerances.* The minimum tolerances shall comply with the applicable tolerances established in Handbook 44 except for railroad track scales. The minimum tolerance that may be applied to railroad track scales shall not be smaller than 25 pounds.

(c) *Tolerance tests involving digital indications or representations on all hopper scales and other scales not marked with an accuracy class designation.* To the tolerances that would otherwise be applied, there shall be added an amount equal to one-half the minimum value that can be indicated or recorded.

(d) *To railroad track scales weighing uncoupled-in-motion cars.* The basic maintenance and acceptance tolerance shall be the same as the static weighing basic tolerances for railroad track scales.

§ 802.2 Test standards and counterpoise weights.

(a) *Weight accuracy.* Counterpoise weights and field test standards (except railroad test cars) shall be verified to within tolerances established by NBS for Class "F" weights as referenced in Handbook 105–1.

(b) *Railroad test cars.* Test cars shall be calibrated within master track scale limits whenever possible. In any event, the test car error shall not exceed 16 pounds plus or minus.

§ 802.3 Qualified metrology laboratories.

(a) All metrology laboratories currently approved by the NBS ongoing certification program having auditing capability are automatically approved by the Service.

(b) Any county or city weights and measures jurisdiction approved by NBS or by their respective NBS-Certified State laboratory as being equipped with appropriate traceable standards and trained staff to provide valid calibration is approved by the Service. The State approval may be documented by a certificate or letter. The jurisdiction must be equipped to provide suitable certification documentation.

(c) Any commercial industrial laboratory primarily involved in the business of sealing and calibrating test weights (standards) will be qualified provided:

(1) They request written authority to perform tolerance testing of weights used within the Service's program(s) through their approved State jurisdiction. Copies of their request and written reference regarding the State decision shall be provided to the Service. A positive decision by the State will be required as a prerequisite to the Service granting approval to any commercial laboratory to tolerance test the weights used in testing scales under the jurisdiction of the Service.

(2) They have NBS traceable standards (through the State) and trained staff to perform calibrations in a manner prescribed by NBS and/or the State;

(3) They are equipped to provide suitable certification documentation;

(4) They permit the Service to make on-the-site visits to laboratory testing space. Final approval of the commercial industrial laboratory will be contingent on the Service's judgment; and

(5) Once they have obtained approval, the commercial industrial laboratory maintains its site in a manner prescribed by the State and/or the Service.

Dated: July 5, 1985.

Kenneth A. Gilles,

Administrator.

[FR Doc. 85–17296 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-EN-M

Commodity Credit Corporation

7 CFR Part 1427

[Amdt. 4]

Standards for Approval of Warehouses for Cotton or Cotton Linters

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR §§ 1427.1081 *et seq.* relating to the Commodity Credit Corporation (CCC) Standards for Approval of Warehouses for Cotton or Cotton Linters. The proposed rule would: (1) Require non-federally licensed warehousemen requesting renewal of an existing Cotton Storage Agreement (CSA) to pay fees to CCC to partially defray warehouse examination costs incurred by CCC in determining whether to renew the CSA; and (2) require non-federally licensed warehousemen requesting approval of a new CSA to pay fees to partially defray warehouse examination costs incurred by CCC in determining whether to approve such new CSA.

DATE: Comments must be received on or before August 21, 1985 in order to be assured of consideration.

ADDRESS: Interested persons are intived to send written comments to Paul W. King, Director, Warehouse Division, United States Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4018 or 447–7433.

FOR FURTHER INFORMATION CONTACT: Steven Closson, Chief, Storage Contract Branch, Warehouse Division, ASCS, USDA, Room 5962-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 382–8053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." This action has been classified "not major" since implementation of this proposed 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, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 28115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Commodity Credit Corporation (CCC) Charter Act (15 U.S.C. 714 *et seq.*) provides authority for CCC to conduct a number of operations to stabilize, support, and protect farm income and prices.

Section 4(h) of the CCC Charter Act provides that CCC shall not acquire real property in order to provide storage facilities for agricultural commodities, unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, section 5 of the CCC Charter Act provides that, in carrying out the Corporation's purchasing and selling operations, and in the warehousing, transporting, processing, or handling of agricultural commodities, CCC is directed to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce. Pursuant to these provisions, CCC enters into Cotton Storage Agreements (CSA) with private warehousemen which provide for the storage of commodities owned by CCC or pledged as security to CCC for a price support loan.

CCC examines all warehouses which are subject to a CSA, or for which a warehouseman has requested approval of a new CSS, to determine whether quantities of CCC-owned cotton, CCC loan-cotton, and other depositors' cotton are totally accounted for and whether the warehouse will provide adequate protection for all cotton in storage and all cotton to be placed in storage. CCC now pays all examination costs with respect to those warehouses which are not licensed under the U.S. Warehouse Act but for which there is a request by the warehouseman for renewal of an existing CSA or for approval of a new CSA. If the warehouse examination discloses that (1) all cotton is accounted for, (2) the facility provides or will provide adequate protection for all cotton and (3) the warehousemen and warehouse meet the financial and other requirements of the Standards of Approval, an existing CSA may be renewed or a new CSA may be approved for the warehouse. Since the warehouseman also derives a direct benefit from warehouse examination, it has been determined that the warehouseman should pay a portion of the examination costs. Accordingly, it is proposed that 7 CFR Part 1427 be amended to require those warehousemen who have a non-federally licensed warehouse and who are seeking renewal of an existing CSA or approval of a new CSA to pay a fee to partially offset the cost of the warehouse examination.

The information collection requirements contained in this regulation (7 CFR Part 1427) have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560-0040, 0560-0074, 0560-0027, and 0560-0059.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs—Cotton price support programs, Cotton storage.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters, be amended as follows:

PART 1427—[AMENDED]

1. The authority citation for 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters, continues to read as follows:

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

1427.1088 [Redesignated as 1427.1089]

2. Section 1427.1088 is redesignated as § 1427.1089.

3. A new § 1427.1088 is added immediately following § 1427.1087 to read as follows:

§ 1427.1088 Contract fees.

(a) Each warehouseman who has a non-federally licensed cotton warehouse must pay an annual contract fee for each such warehouse for which the warehouseman requests renewal of an existing Cotton Storage Agreement or approval of a new Cotton Storage Agreement as follows:

(1) A warehouseman who has an existing Cotton Storage Agreement with CCC for the storage and handling of CCC-owned cotton or cotton pledged to CCC as loan collateral must pay an annual contract fee for each warehouse approved under such agreement in advance of the renewal date of such agreement.

(2) A warehouseman who does not have an existing Cotton Storage Agreement with CCC for the storage and handling of CCC-owned cotton or cotton pledged to CCC as loan collateral but who desires such an agreement must pay a contract fee for each warehouse for which CCC approval is sought prior to the time that the agreement is approved by CCC.

(b) The amount of the contract fee shall be determined and announced annually in the **Federal Register.**

Signed at Washington, D.C., on July 17, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85-17384 Filed 7-19-85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-64-AD]

Airworthiness Directives; Fokker B.V. Model F28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections, and repair, if necessary, of the center wing rear spar end fittings on certain Fokker Model F28 series airplanes. Several cases of cracked fittings due to stress corrosion were found during inspection by the manufacturer. Uncorrected cracked fittings could result in structural failure and loss of the airplane.

DATE: Comments must be received on or before September 10, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-64-AD, 17900 Pacific Highway South, C-68966, Seattle,

Washington 98168. The applicable service information may be obtained from the Manager of Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schiphol Oost, the Netherlands. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Mr. Mark E. Baldwin, Standardization Branch, ANM-113, telephone (206) 431-2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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 above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in 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. 85-NM-64-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Ministerie van Verkeer en Waaterstaat, Rijksluchtvaartidienst (RLD), the Civil Aviation Authority of the Netherlands, has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a potentially unsafe condition on certain Fokker Model F28 airplanes. During a routine maintenance inspection on of an F28 airplane with approximately 24,000 accumulated flight-hours and 29,500 landings, the manufacturer found a crack in the center wing rear spar end fitting LH, P/N A31130. In its investigation, the manufacturer determined the cause of the crack to be stress corrosion. An unrepaired crack could progress to a point that wing failure occurs.

In order to obtain an inventory of possible cracks, Service Bulletin F28/57-69, dated November 1, 1982, was issued and distributed to operators of affected Model F28 airplanes. Service Bulletins F28/57-69 and F28/57-69 (Revision 1), dated April 16, 1984, were made mandatory by Netherlands Airworthiness Directive (AD) No. 82-40-57. The AD was subsequently canceled because the inspection and repairs required were incorporated in the Fokker F28 Structural Integrity Program which was also made mandatory by the RLD. In order to establish a reference source for U.S. AD action, Fokker issued Service Bulletin F28/57-73 which applies only to those affected Model F28 airplanes which are registered in the U.S. This service bulletin refers to all Fokker F28 technical manuals which contain the necessary information to carry out properly the required inspections and to accomplish a repair, if necessary. This service bulletin, like the predecessor Service Bulletin F28/57-69 (Revision 1), does not recommend the initial inspection until six years after delivery due to the nature of the stress corrosion cracks and service experience.

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

Since these conditions are likely to exist or develop on airplanes of this type design registered in the United States, an AD is proposed that would require an initial inspection, repetitive inspections at not more than yearly intervals, and repair as necessary, of the center rear spar end fittings.

It is estimated that 30 airplanes would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required inspections each year, and that the average labor cost would be $40 per manhour. Based on these figures, the cost impact of the inspections of this AD to U.S. operators is estimated to be $3,600 per year.

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, Fokker Model F28 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F28 series airplanes certificated in any category:
Serial Nos:
11003 to 11189 inclusive
11190 to 11192 inclusive (RH side only)
11991 and 11992

To prevent failures of the wing center section, accomplish the following, unless already accomplished, within the next 60 days after the effective date of this AD or before the airplane reaches six years of age (from date of delivery), whichever occurs later:

A. Inspect the center wing rear spar end fittings, and repair if cracks are found, in accordance with Fokker Service Bulletin F28/57-73 dated June 18, 1984.

B. Repeat the inspection and repairs required by paragraph A., above, at intervals not to exceed one year.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, FAA, Northwest Mountain Region.

D. 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.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,
Acting Director, Northwest Mountain Region.

[FR Doc. 85-17304 Filed 7-19-85; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 851 0027]

Hospital Corp. of America; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Nashville, Tenn. for-profit hospital chain, among other things, to divest three of the hospitals it acquired from Forum Group, Inc. to Commission-approved acquirers within 12 months after the order becomes final. If respondent cannot divest within the time specified, the Commission would appoint a trustee to make the divestitures. Respondent would be prohibited from reacquiring the assets of any of the divested hospitals for 10 years without prior Commission approval. Additionally, respondent would be required to provide advance notification to the Commission before acquiring any psychiatric hospital or unit, or any general acute care hospital operating a psychiatric unit, in the Norfolk, Va., area; or any general acute care hospital in the Midland/Odessa, Tex. area; unless such acquisition price does not exceed one million dollars ($1,000,000). Further, respondent would be required to file compliance reports with the Commission at specified times and make records available to Commission staff.

DATE: Comments must be received on or before September 20, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/B-823, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9 (b)(14)).

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

Before Federal Trade Commission

[File No. 851-0027]

In the matter of Hospital Corporation of America, a corporation. Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of the proposed acquisition by Hospital Corporation of America ("HCA") of certain assets of Forum Group, Inc., and it now appearing that HCA, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order with respect to the acquisition being investigated.

It is hereby agreed by and between HCA, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. HCA is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at One Park Plaza, Nashville, Tennessee 37203.

2. Proposed respondent admits all the jurisdictional allegations set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "HCA" means Hospital Corporation of America, a corporation organized under the laws of Tennessee, with its principal executive office at One Park Plaza, Nashville, Tennessee 37203, and its directors, officers, agents, employees, and representatives, and its

subsidiaries, divisions, affiliates, successors, and assigns.

B. "Forum" means Forum Group, Inc. and its subsidiaries, divisions, affiliates successors, and assigns.

C. "Hospital" means a health facility, other than a federally owned facility, having a duly organized governing body with overall administrative responsibility and an organized professional staff that provides 24-hour inpatient care, and that may also provide outpatient services.

D. "General acute care hospital" means a hospital which has as a primary function the provision of inpatient services for medical diagnosis, treatment, and care of physicially injured or sick persons with short-term or episodic health problems or infirmities.

E. "Psychiatric hospital" means a hospital which has as a primary function the provision of inpatient services for psychiatric diagnosis, treament, and care of persons suffering from mental illness or emotional disturbance, and may also provide treatment for alchol or drug abuse.

F. "Psychiatric unit" means a department, unit, or other organizational subdivision of a general acute care hospital that has as a primary function the provision of inpatient services for psychiatric diagnosis, treatment, and care of persons suffering from mental illness or emotional disturbance, and may also provide treatment for alcohol or drug abuse.

G. "Norfolk MSA" means the Norfolk-Virginia Beach-Newport News, Virginia Metropolitan Statistical Area, as defined as of January 1, 1985 by the Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

H. "Midland/Odessa Area" means the area comprising Ector and Midland counties in Texas.

I. "Acquire" a hospital or psychiatric unit means to directly or indirectly acquire all or any part of the stock or assets of a hospital or psychiatric unit, or enter into any other arrangement by which HCA obtains direct or indirect, ownership of, or otherwise begins to operate, a hospital or psychiatric unit; *privided, however,* that if an order is issued and becomes final in *Hospital Corporation of America,* FTC Docket No. 9161, that requires HCA to obtain the prior approval of, or provide advance notification to, the Federal Trade Commission with respect to any hospital management contracts, then as of that date, "operate a hospital or psychiatric unit" shall be deemed to include management of a hospital or a psychiatric unit pursuant to a management contract.

II

It is ordered that within twelve (12) months from the date this Order becomes final, HCA shall divest, absolutely and in good faith, all of the stock and assets specified in Schedule A. The purpose of the divestitures is to reestablish the hospitals listed in Schedule A as viable competitors. The divestitures shall be subject to the prior approval of the Federal Trade Commission.

Pending divestiture, whether by HCA or by a trustee as provided for in section III below, HCA shall continue to operate the facilities to be divested, and take all measures necessary to maintain those facilities in their present condition and to prevent any deterioration, except for normal wear and tear, of any of the assets to be divested so as not to impair their present operating abilities or market value.

For a period of ten (10) years from the date this Order becomes final, HCA shall not, directly or indirectly, reacquire any interest in any Schedule A stock or assets required to be divested by this Section II of this Order without the prior approval of the Federal Trade Commission.

III

A. If HCA has not divested all of the properties, assets, or enterprises required to be divested pursuant to section II of this Order within the 12-month period provided therein, the Federal Trade Commission may select a trustee to effect any ordered divestitures yet to be accomplished. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If the Federal Trade Commission should elect to appoint a trustee, it shall not be precluded from seeking civil penalties and other relief available to it for any failure by HCA to comply with this Order. If the Federal Trade Commission should not elect to appoint a trustee under this section III of this Order, it shall not be precluded from seeking civil penalties, the appointment by the courts of a trustee to effect the divestitures, and other relief available to it, for any failure by HCA to comply with this Order.

B. Any trustee appointed by the Federal Trade Commission pursuant to this section III shall have the following powers, authority, duties, and responsibilities:

1. The trustee shall have the exclusive power and authority to divest any properties, assets, or enterprises required to be divested pursuant to Section II of this Order that have not been divested by HCA within the time period for the divestitures provided therein. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestitures, which shall be subject to the prior approval of the Federal Trade Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Federal Trade Commission. In addition, any delay in divestiture caused by HCA shall extend the time for divestiture in accordance with the delay caused.

2. The trustee shall have full and complete access to the personnel, books, records and facilities of any property, asset, or enterprise that the trustee has the duty to divest, and HCA shall develop such financial or other information relevant to the properties, assets, or enterprises to be divested as the trustee may reasonably request. HCA shall cooperate with the trustee, and shall take no action to interfere with or impede the trustee's accomplishment of the divestitures.

3. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with this Order's absolute and unconditional obligation to divest and the purposes of the divestitures as stated in Section II of this Order.

4. The trustee shall serve, without bond or any other security, at the cost and expense of HCA on such reasonable and customary terms and conditions as the Federal Trade Commission may set. The trustee shall have authority to retain, at the cost and expense of HCA, such consultants, attorneys, investment bankers, business brokers, accountants, appraisers, and other representatives and assistants as are reasonably necessary to assist in the divestitures. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Federal Trade Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to HCA and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting the trust property.

5. HCA shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities to which the trustee may become subject, arising in any manner out of, or in connection with, the trustee's duties under this Order, unless

the Federal Trade Commission determines that such losses, claims, damages, or liabilities arose out of the misfeasance, negligence, or the willful or wanton acts or bad faith of the trustee.

6. Promptly upon appointment of the trustee and subject to the approval of the Federal Trade Commission, HCA shall, subject to the Federal Trade Commission's prior approval and consistent with provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to cause the divestitures.

7. If the trustee ceases to act or fails to act diligently, the Federal Trade Commission shall appoint a substitute trustee.

8. The trustee may ask the Federal Trade Commission to issue, and the Federal Trade Commission may issue, such additional orders or directions as may be necessary and appropriate to accomplish the divestitures required under this Order.

9. The trustee shall have no obligation or authority to operate or maintain any of the properties, assets, or enterprises required to be divested pursuant to section II of this Order.

10. The trustee shall report in writing to HCA and the Federal Trade Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

It is further ordered that for a period of ten (10) years from the date this Order becomes final, HCA shall not, without providing advance notification to the Federal Trade Commission, acquire: (1) Any psychiatric hospital, any psychiatric unit, or any general acute care hospital operating a psychiatric unit, in the Norfolk MSA; or (2) any general acute care hospital in the Midland/Odessa Area. Such advance notification shall be provided when HCA executes a letter of intent or enters into an agreement to make such an acquisition, whichever is earlier.

The notification required by this section shall be the Notification and Report form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, as amended, and shall be prepared and transmitted in accordance with the requirements of that Part. This notification requirement shall apply to HCA and shall not apply to any party that HCA seeks to acquire. HCA shall also provide at the same time of the filing of the Notification and Report Form supplemental information, either in HCA's possession or reasonably available to HCA, relating to the hospital to be acquired, the HCA hospital(s) in that geographic area, and identification and assessment of the area hospital market, as specified in Schedule B. In addition, HCA shall comply with reasonable requests by Commission staff for additional information within fifteen (15) days of service of such requests.

Provided, however, that no acquisition shall be subject to the notification requirements of this section: (1) If the acquisition is by purchase, and the consideration paid for the hospital or any rights or interest therein, including assumption by HCA of any liabilities, does not exceed one million dollars ($1,000,000); or (2) if notification of the acquisition is required to be made, and in fact is made, pursuant to section 7A of the Clayton Act, 15 U.S.C. 18a.

V

It is further ordered that HCA shall, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until it has fully complied with the provisions of Section II of this Order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with these provisions.

Such compliance reports shall include, in addition to any other information that the staff of the Federal Trade Commission may reasonably request, a summary of all contacts and negotiations with potential purchasers of the stock, assets, or other rights or interests to be divested under this Order, the identity and address of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

VI

It is further ordered, that HCA, upon written request of the Secretary of the Federal Trade Commission or the Director of the Bureau of Competition of the Federal Trade Commission made to HCA at its principal office, for the purpose of securing compliance with this Order, and for no other purpose, and subject to any legally recognized privilege, shall permit duly authorized representatives of the Federal Trade Commission:

1. Reasonable access during the office hours of HCA, which may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, reports, and other records and documents in HCA's custody, possession or control that relate materially and substantially to any matter contained in this Order; and

2. An opportunity, subject to the reasonable convenience of HCA, to interview officers or employees of HCA, who may have counsel present, regarding such matters.

VII

It is further ordered that HCA shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed corporate change, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance with the obligations arising out of this Order.

Schedule A: Stock and Assets To Be Divested

A. All stock, and all assets (including, but not limited to, properties, licenses, land, and other rights and privileges, tangible or intangible), acquired by HCA directly or indirectly from Forum in connection with any of the following hospitals:

1. Parkview Hospital, in Midland, Texas;

2. Doctors' Hospital of the Permian Basin, in Midland, Texas (a planned new facility which, if and when it is completed, will replace Parkview Hospital);

3. Virginia Center for Psychiatry—Norfolk, in Norfolk, Virginia; and

4. Virginia Center for Psychiatry—Portsmouth, in Portsmouth, Virginia.

Including specifically all stock of Doctors' Hospital Permian Basin, Inc. (a Texas corporation), and whatever assets may have been acquired by HCA directly or indirectly from that corporation, from Midland Hospital Corporation (a Texas corporation), or from Norfolk Psychiatric Center, Inc. or Portsmouth Psychiatric Center, Inc. (both Virginia corporations).

B. All improvements made to the hospitals and related assets specified in paragraph A above subsequent to their acquistion by HCA.

Schedule B. Supplemental Information To Accompany Notification of a Hospital Acquisition

The supplemental information HCA is required to submit with its notification to the Federal Trade Commission of a hospital acquisition, pursuant to Section IV of this Order, shall include a full description of the acquisition (including a copy of the acquistion agreement), to the extent such information is not already provided in the Notification and Report form submitted by HCA, and shall also include, where available, patient flow data, annual management and strategic plans, hospital utilization and revenue data, and documents

relating to market share, formulation of hospital prices, competitive interaction among area hospitals, implementation of certificate of need standards in the area, planned efficiencies, relations with third-party payers, and physician admitting patterns.

Hospital Corporation of America

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a consent order from Hospital Corporation of America ("HCA").

The proposed consent order has been placed on the public record for sixty (60) days for filing of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should make final the agreement's proposed order or withdraw from the agreement.

The Complaint. A complaint prepared for issuance by the Commission along with the proposed order alleges that part of HCA's acquisition of assets and voting securities from Forum Group, Inc. ("Forum"), completed on April 2, 1985, violated section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

Count I of the complaint alleges that HCA's acquisition of Forum's two psychiatric hospitals in the Norfolk, Virginia area threatened to lessen competition substantially in the market for psychiatric hospital services in the Norfolk-Virginia Beach-Newport News, Virginia Metropolitan Statistical Area ("Norfolk MSA"). The acquisition eliminated Forum as an independent competitor and increased concentration in the market, substantially increasing the likelihood of collusion in the market, which has high barriers to entry.

Count II of the complaint alleges that HCA's acquisition of Forum's general acute care hospital in Midland, Texas, threatened to lessen competition substantially in the market for general acute care hospital services in Midland and Ector counties in Texas (the "Midland/Odessa area"). The acquisition eliminated Forum as an independent competitor and increased concentration in the market, substantially increasing the likelihood of collusion in the market, which has substantial barriers to entry.

The Proposed Consent Order. HCA has agreed to an order providing for divestiture of the psychiatric hospitals in the Norfolk MSA market and the general acute care hospital in the Midland/Odessa market that it acquired from Forum.

Section I of the proposed Order defines the terms used throughout the Order.

Section II of the proposed Order would require HCA to divest the hospitals it acquired from Forum in the Norfolk MSA and the Midland/Odessa area, along with certain related stock and assets (specified in Schedule A, attached to the proposed Order), to Commission-approved acquirers within twelve (12) months of the issuance of the Order. The purpose of these divestitures is to reestablish the hospitals as viable competitors. Therefore, pending divesture, Section II would require HCA to preserve the assets and to continue to operate the hospitals. For a period of ten (10) years, HCA would be prohibited from reacquiring any interest in the divested hospitals and assets without prior approval of the Commission.

Section III of the proposed Order would give the Commission the right to appoint a trustee to carry out the divestitures required by section II if HCA fails to do so within the twelve-month period.

Section IV of the proposed Order would require HCA, for a period of ten years, to notify the Commission prior to the acquisition of: (1) Any psychiatric hospital, psychiatric unit in a general acute care hospital, or general acute care hospital operating a psychiatric unit, in the Norfolk MSA market; or (2) any general acute care hospital in the Midland/Odessa market. HCA would be required to provide the Commission with notice by filing (1) a Notification and Report form designed for use in the Hart-Scott-Rodino premerger notification program, and (2) supplemental information relating to the planned acquisition, such as patient flow data and documents relating to competitive interaction among hospitals in the area of the acquisition (specified in Schedule B, attached to the proposed Order). If, however, the acquisition involves less than $1 million or is reported under the Hart-Scott-Rodino premerger notification program, notice pursuant to this section would not be required.

Sections V, VI, and VII are standard compliance provisions of Commission orders. Section V of the proposed Order would require HCA to file with the Commission written reports setting forth the manner and form of its compliance with the Order. Pursuant to section VI, HCA would be required to make its records available to Commission staff. Finally, Section VII would require HCA to notify the Commission at least thirty (30) days prior to any corporate change that may affect HCA's compliance with the Order.

The purposes of this proposed Order are to prevent the anticompetitive conduct the acquisition would likely have facilitated in the relevant markets, and to restore competition to its preacquisition level in those markets.

The purpose of this analysis is to facilitate public comment on the proposed Order. It is not intended to constitute an official interpretation of the agreement and the proposed Order, or to modify it in any way.

Emily H. Rock,

Secretary.

[FR Doc 85-17295 Filed 7-19-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 831 0147]

Medical Staff of John C. Lincoln Hospital & Health Center; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require an unincorporated association of physicians and other practitioners who have been granted privileges by John C. Lincoln Hospital & Health Center in Phoenix, Ariz. to admit and attend patients, among other things, to cease threatening or participating in any: (1) Boycott or concerted refusal fo deal, including a refusal to refer, admit or treat patients; (2) unreasonably discriminatory action against a health care facility or professional; or (3) coercive action to influence any reimbursement or insurance determination, if the purpose or effect of such conduct would be to impede the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai or Gila. Respondent would not be prohibited from participating in any policy-making or medical review activities at the hospital, when such conduct does not constitute, and is not part of, a boycott or refusal to deal. Additionally, respondent would be required to file compliance reports with the Commission at specified times and provide copies of the Complaint and

Order to all present and future members of the Medical Staff.

DATE: Comments must be received on or before September 20, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/B-823, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

Before Federal Trade Commission

[File No. 831-0147]

Agreement Containing Consent Order to Cease and Desist

In the matter of Medical Staff of John C. Lincoln Hospital & Health Center.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Medical Staff of John C. Lincoln Hospital & Health Center ("Respondent"), and it now appearing that Respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Respondent, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Respondent's mailing address is 9211 North Second Street, Phoenix, Arizona 85020.

2. Only for purposes of this proceeding and any subsequent proceedings for enforcement or modification of the consent order entered as a result of this agreement, Respondent admits all of the jurisdictional facts set forth in pargraphs TWO, FOUR, and FIVE of the draft complaint that is attached as Exhibit A.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the draft complaint attached as Exhibit A.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Respondent, (1) issue its complaint corresponding in form and substance with the draft complaint attached as Exhibit A and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Respondent's address as stated in this agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Respondent has read the proposed complaint and order contemplated hereby. It understands that when the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "Respondent" or "the Medical Staff" means the Medical Staff of John C. Lincoln Hospital & Health Center, its officers, committees, representatives, delegates, agents, employees, successors, or assigns. The Medical Staff is an unincorporated association of physicians and other practitioners who have been granted privileges by John C. Lincoln Hospital & Health Center to admit and attend patients in John C. Lincoln Hospital & Health Center.

B. "Lincoln Hospital" means John C. Lincoln Hospital & Health Center, a non-profit corporation organized and existing under and by virtue of the laws of the State of Arizona that operates a general acute care hospital.

C. "Urgent care center" means a freestanding health care delivery facility that is designed and staffed to provide treatment to patients with non-life threatening, but nevertheless urgent, conditions on a non-appointment, episodic basis.

D. "Corrective action" means action taken pursuant to and in conformance with the Medical Staff's bylaws against any person with clinical privileges at Lincoln Hospital who fails to provide evidence of eligibility to purchase malpractice insurance or whose activities or professional conduct are detrimental to patient safety, the delivery of quality patient care, or are unreasonably disruptive to the operation of Lincoln Hospital.

II

It is ordered that Respondent shall cease and desist from, directly or indirectly or through any device:

A. Making, or joining in any plan to make, any express or implied threat of any unreasonably discriminatory action against a health care facility, institution, or professional, any coercive action to influence any reimbursement or insurance determination, or any boycott or concerted refusal to deal, including a refusal to refer, admit, or treat patients, or

B. Suggesting, encouraging, initiating, engaging in, or participating in any unreasonably discriminatory action against a health care facility, institution, or professional, any coercive action to influence any reimbursement or issuance determination, or any boycott or concerted refusal to deal, including a refusal to refer, admit, or treat patients, for the purpose of, or with the effect or likely effect of, impeding the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai, or Gila.

III

It is further ordered that this Order shall not be construed to prohibit Respondent or its members from engaging, pursuant to the Medical Staff's bylaws, in credentialling, corrective action, utilization review, quality assurance, peer review, or hospital policy-making activities at Lincoln Hospital, where such conduct neither constitutes nor is part of any boycott, concerted refusal to deal, discrimination, or coercion, the purpose, effect, or likely effect of which is to impede unreasonably the development or operation of an urgent care center or any other health care facility or institution.

IV

It is further ordered that this Order shall not be construed to prevent Respondent from exercising rights guaranteed against infringement by the First Amendment of the United States Constitution, including the right to petition any federal or state executive, legislative, judicial, or administrative agency or body, concerning legislation, rules, regulations, or procedures, or from engaging in any activities which are exempt from the antitrust laws under the state action doctrine or the *Noerr-Pennington* Doctrine.

V

It is further ordered that Respondent shall:

A. Within thirty (30) days after this Order becomes final, mail a copy of this Order and of the Complaint in this proceeding to each officer and to each physician who is a member of the Medical Staff on that date, and, for a period of five (5) years after that date, provide a copy of such Order and Complaint to each physician who becomes a member of the Medical Staff.

B. Within one hundred and twenty days (120) after this Order becomes final, and at such other times as the Commission may be written notice to the Respondent require, file or cause to be filed with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order.

C. In addition to the report required by Section V.B., within one year after this Order becomes final, and annually for a period of five (5) years on or before the anniversary of the date on which this Order becomes final, and at such other times as the Commission may be written notice require, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which the Medical Staff has complied and is complying with this Order.

D. For a period of five years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with any activity covered by Part II of this Order.

VI

It is further ordered that the Respondent notify the Commission at least thirty (30) days prior to any proposed change in the Medical Staff that may affect compliance obligations arising out of this Order.

Medical Staff at John C. Lincoln Hospital & Health Center

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Medical Staff of John C. Lincoln Hospital and Health Center ("Medical Staff").

The proposed consent order has been place on the public record for sixty (60) days for reception of comments by interested persons. Comment received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will determine whether it should withdraw the agreement or make final the agreement's proposed order.

The Complaint. A complaint prepared for issuance by the Commission along with the proposed order alleges that the Medical Staff, acting as a combination of its members, or in conspiracy with at least some of its members or others, participated in a conspiracy to restrain competition among the various health care providers in Phoenix, Arizona, by joining in a common plan to coerce, intimidate, and threaten to boycott John C. Lincoln Hospital & Health Center ("Lincoln Hospital" or "the Hospital") in order to induce the Hospital to close an urgent care center that Medical Staff physicians felt was competing with their private practices. An urgent care center is a freestanding health facility designed and staffed to provide treatment to patients with non-life threatening, but nevertheless urgent, conditions on a non appointment, episodic basis. This activity is alleged to be an unfair method of competition in violation of section 5 of the Federal Trade Commission Act.

The complaint alleges that the totality of actions taken by the Medical Staff and its members in opposition to the Hospital's operation of the urgent care center establishes the existence of a conspiracy. The passage of written resolutions opposing Lincoln Hospital's operation of an urgent care center by the members of the Medical Staff, on its behalf, link the Medical Staff to the conspiracy. These resolutions contained the implied threat that members of the Medical Staff would take their patients to other hospitals if Lincoln Hospital operated the urgent care center. In addition, the complaint alleges that a member of the Medical Staff, purporting to represent the attitude of the Medical Staff's members, disseminated to each member of Lincoln Hosital's Board of Directors a statement that Medical Staff members would take their patients to other hospitals if Lincoln Hospital operated any facility that competed directly with the Medical Staff physician's private practices. The complaint further alleges that a member of the Medical Staff wrote to all of Lincoln Hospital's Board members stating that Lincoln Hospital could not afford to alienate its Medical Staff and referred them to a "position paper" prepared by the Maricopa County Medical Society. This position paper recommended that physicians stand together and not support hospitals that compete with them. The complaint further asserts that some members of the Medical Staff wrote letters to Lincoln Hospital Board members resigning from the Medical Staff or threatening to resign or to cease admitting patients because of the Hospital's operation of the urgent care center.

The complaint alleges that, as a result of the Medical Staff's actions, Lincoln Hospital closed the urgent care center. As a further result, the complaint alleges that competition in the provision of health care services has been unreasonably restrained and consumers were deprived of the benefits of competition in the following ways: patients have been limited in their ability to choose among a variety of

alternative types of health care facilities; other hospitals have been or may be deterred from operating facilities that might compete with the private practices of physicians on their medical staffs; the development of an alternative and innovative form of health care facility has been hindered; and, Lincoln Hospital's ability to compete with other hospitals in the Phoenix metropolitan area has been restrained.

The Proposed Consent Order. The proposed consent order would prohibit the Medical Staff from making or joining in any plan to make: (1) Any threat of unreasonably discriminatory action against a health care facility, institution, or professional; (2) any coercive action to influence any reimbursement or insurance determination; (3) any boycott or concerted refusal to deal, which may include a refusal to refer, admit or treat patients, if the purpose or the effect of such conduct would be to impede the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai, or Gila. It would further prohibit the Medical Staff from suggesting, encouraging, initiating, engaging in, or participating in any of the above-described conduct.

The proposed consent order also contains two provisions. The first permits the Medical Staff to perform legitimate Medical Staff activities, such as credentialling, corrective action, utilization review, quality assurance, peer review, or hospital policy-making activities at Lincoln Hospital, as long as its conduct in connection with these activities is not a boycott, a concerted refusal to deal, discrimination, or coercion, and the purpose or effect of the conduct would not be to impede unreasonably the development of an urgent care center or any other health care facility or institution. The second proviso permits the Medical Staff to exercise its rights guaranteed by the First Amendment of the United States Constitution and to engage in activities which are exempt from the antitrust laws under the state action doctrine or the *Noerr Pennington* Doctrine.

To ensure that all present and future members of the Medical Staff are aware of the limitations imposed by the order, the Medical Staff would be required to mail a copy of the order to each physician who is currently a member of the Medical Staff, and for the next five (5) years, provide a copy of the order and complaint to each physician who joins the Medical Staff. To ensure that the proposed order is obeyed, the Medical Staff would be required to file written reports with the Commission setting forth the manner and form of its compliance. The Medical Staff would also be required to make its records available to the Commission staff. Finally, the proposed order would require the Medical Staff to notify the Commission at least thirty (30) days prior to any proposed change in the Medical Staff that may affect its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-17292 Filed 7-19-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of Certain Color Additives; Proposal To Extend Closing Dates

Correction

In FR Doc. 85-15378 beginning on page 26377 in the issue of Wednesday, June 26, 1985, make the following correction: On page 26382, in the second column, in § 81.27(d), in the table, in the second entry, "D&C Red No. 3" should read "FD&C Red No. 3".

BILLING CODE 1505-01-M

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21 CFR Part 146

[Docket No. 84N-0402]

Pulpy Nectars of Certain Small Fruits; Termination of Consideration of Codex Standard

Correction

In FR Doc. 85-15279 appearing on page 26384 in the issue of Wednesday, June 26, 1985, make the following correction: In the second column, in the sixth line from the top "is need" should read "is no need".

BILLING CODE 1505-01-M

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21 CFR Parts 201, 211, 514, and 559

[Docket No. 83N-0076]

Approval of Bulk New Animal Drug Substances for Use by Licensed Veterinarians

Correction

In FR Doc. 85-15674, beginning on page 27016 in the issue of Monday, July 1, 1985, make the following corrections:

1. On page 27020, in the second column, fifteenth line of paragraph d, "NAS/BRC" should read "NAS/NRC".

2. On page 27021, first column, at the end of the first complete paragraph, add the following sentence: "Thus, the proposal would amend § 211.1(a) to broaden the scope of the CGMP regulations to include the manufacture, processing, packing, or holding of bulk new animal drug substances."

3. On page 27023, first column, first line of amendatory instruction 8, "Part 541" should read "Part 514".

4. On page 27023, third column, fourth line of § 559.4(d), "§ 514.300" should read "§ 510.300".

BILLING CODE 1505-01-M

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21 CFR Part 433

[Docket No. 84N-0373]

Antibiotic Drug Products for Over-the-Counter Human Use; Exemption From Certification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations to specifically exempt from batch certification antibiotic drug products for over-the-counter (OTC) human use that meet all of the conditions in § 330.1 (21 CFR 330.1) and in an applicable final OTC antibiotic drug monograph. Under the exemption, manufacturers would not be required to obtain, before marketing, certification of each batch of an OTC antibiotic drug that is generally recognized as safe and effective and not misbranded.

DATES: Comments by September 20, 1985; requests for an informal conference by August 21, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Meyer, Center for Drug and Biologics (HFN-362), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 7, 1982 (47 FR 39155), FDA amended § 433.1 of the regulations (21 CFR 433.1), which describes how antibiotic drugs can be exempted from the batch certification requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357). This regulation now provides that antibiotic drugs for human use are exempt from the batch certification requirements of the act if they are approved for marketing under an appropriate antibiotic Form 5 or Form 6 and meet certain other specified conditions. Because the act provides that an antibiotic drug that is a new drug exempted from the batch certification requirements is subject to the new drug approval requirements of section 505 of the act (21 U.S.C. 355), the regulations also provide that an approved antibiotic Form 5 is regarded as an approved new drug application, and an approved antibiotic Form 6 is regarded as an approved abbreviated new drug application.

Part 330 of the regulations (21 CFR Part 330) contains procedures by which classes of OTC human drugs are generally recognized as safe and effective and not misbranded. Under these procedures, an OTC drug product, including an OTC antibiotic drug product, that conforms to each of the general conditions established in § 330.1, and to each of the conditions in an applicable final OTC drug monograph issued under § 330.10, is generally recognized as safe and effective and not misbranded. Because it is generally recognized as safe and effective, such a product is not subject to the new drug approval requirements of section 505 of the act. Accordingly, OTC antibiotic drug products that meet the conditions in Part 330 do not need approval for marketing in the form of an approved antibiotic Form 5 or Form 6.

The agency believes that an OTC antibiotic drug product that meets the requirements of Part 330 also should be exempted from the batch certification requirements of section 507 of the act. However, such drug products would not meet one of the conditions necessary for exemption under § 433.1, as this section is presently written. Specifically, such drug products would not be approved for marketing under an appropriate antibiotic Form 5 or Form 6, as § 433.1 now requires. FDA did not intend to exclude OTC antibiotic drugs that are generally recognized as safe and effective from the exemption from batch certification. Therefore, the agency is proposing that § 433.1 be revised to exempt from the requirements of batch certification all OTC antibiotic drug products that conform to each of the general conditions established in § 330.1 of the regulations and to each of the conditions in an applicable final OTC drug monograph issued under § 330.10. The agency is also proposing a conforming technical amendment to § 433.2(b).

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(a) (8) and (9) (April 26, 1985; 50 FR 16636) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has considered the economic impact of this proposed rule and has determined that it does not require a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposed rule would allow OTC antibiotic drugs that are generally recognized as safe and effective to be marketed without obtaining certification of each batch of antibiotic drug, thus eliminating the cost of this certification for the manufacturers of OTC antibiotic drugs that will be marketed under an applicable final OTC drug monograph. Accordingly, the agency certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Interested persons may, on or before September 20, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with 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.

Interested persons may also, on or before August 21, 1985, submit to the Dockets Management Branch a request for an informal conference. The participants in a informal conference, if one is held, will have until September 20, 1985, or 30 days from the date of the conference, whichever is later, to submit their comments.

List of Subjects in 21 CFR Part 433

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs it is proposed that Part 433 be amended as follows:

PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

1. The authority citation for 21 CFR Part 433 would continue to read as follows:

Authority: Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357), unless otherwise noted.

2. In Part 433 by revising §§ 433.1 and 433.2(b) to read as follows:

§ 433.1 Exemption of antibiotic drugs for human use from batch certification requirements.

(a) Antibiotic drugs for human use are exempt from the batch certification requirements of Part 431 of this chapter if the conditions of paragraph (b) of this section are met; or, in the case of over-the-counter antibiotic drugs subject to an over-the-counter drug monograph in this chapter, if the conditions of paragraph (c) of this section are met.

(b) The conditions are as follows:

(1) The antibiotic drug is approved for marketing under an appropriate antibiotic Form 5 or Form 6 application or is the subject of review under the Drug Efficacy Study Implementation Program.

(2) The antibiotic drug is packaged and labeled for dispensing in accordance with the applicable regulation (monograph) in this chapter except where other labeling has been approved in an applicable antibiotic Form 5 or Form 6 application.

(3) The bulk antibiotic drug used in preparing the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation (monograph) in this chapter except where other standards have been approved in an applicable antibiotic Form 5 or Form 6 application.

(4) The antibiotic drug product meets the standards of identity, strength, quality and purity specified in the applicable regulation (monograph) in this chapter except where other standards have been approved in an applicable antibiotic Form 5 or Form 6 application.

(c) The over-the-counter antibiotic drug product for human use meets the general conditions established in § 330.1 of this chapter, and the conditions

specified in an applicable over-the-counter drug monograph in this chapter.

(d) In accordance with the provisions of section 507(e) of the act, an antibiotic-containing drug for human use exempt from the requirements for batch certification under paragraph (b) of this section is subject following its approval to section 505 of the act and applicable regulations for new drugs, generally Parts 310 through 314 of this chapter. For each antibiotic drug subject to an exemption under paragraph (b) of this section:

(1) An approved antibiotic Form 5 application is regarded to be an approved new drug application under § 314.50 of this chapter.

(2) An approved antibiotic Form 6 application is regarded to be an approved abbreviated new drug application under § 314.55 of this chapter.

(e) Nothing in this section prevents a manufacturer from applying for batch certification of an antibiotic drug for human use subject to an exemption under this section as provided in section 507(c) of the act.

(f) All exemptions from batch certification requirements for antibiotic drugs for human use under this section are subject to the conditions of effectiveness under § 433.2.

(g) Reporting/recordkeeping requirements contained in this Part 433 have been approved by the Office of Management and Budget and assigned approval numbers 0910–0007, 0910–0009, and 0910–0055.

§ 433.2 Conditions on the effectiveness of exemptions of antibiotic drugs for human use from batch certification requirements.

* * * * *

(b) If the Commissioner finds that the person granted an exemption from batch certification requirements for an antibiotic drug for human use has failed either to comply with the requirements of section 505 of the act and the regulations promulgated thereunder or to meet the general conditions established in § 330.1 of this chapter and the conditions specified in an applicable over-the-counter drug monograph in this chapter; or if the Commission finds that the requirements of § 433.1 have not been met; or if the Commissioner finds that the petition for exemption from batch certification contains any false statements of fact, the Commissioner may revoke the exemption from batch certifications requirements immediately and require batch certification of the drug until such person shows adequate cause why the exemption from batch certification requirements should be reinstated.

* * * * *

Dated: July 12, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17281 Filed 7–19–85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 1002

[Docket No. 82N–0273]

Review of Records and Reports Regulations for Radiation Emitting Electronic Products; Availability of Report

Correction

In FR Doc. 85–15673, appearing on page 27024 in the issue of Monday, July 1, 1985, make the following correction:

In the second column, in the **FOR FURTHER INFORMATION CONTACT** paragraph, in the second line "(HFS–83)" should read "HFZ–83)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Wyoming Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Wyoming to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Also, the public is invited to comment on the proposal to make the decision on the proposal program amendment retroactive to October 22, 1984, to coincide with the promulgation date of this regulation package by the Wyoming Secretary of State. The proposed amendment consists of revisions to eight chapters of the approved permanent program regulations which are administered by the Wyoming Land Quality Division (LQD).

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on August 21, 1985 will not necessarily be considered. A public hearing on the proposal will be held, if requested on August 16, 1985, at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office by 4:00 p.m. on August 11, 1985. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public meeting will be held at the Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

See **"SUPPLEMENTARY INFORMATION"** for address where copies of the Wyoming program amendment and administrative record on the Wyoming program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644. Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION: Copies of the Wyoming program amendment, the Wyoming program and the administrative record on the Wyoming program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Background

The general background on the permanent program, the general background on the State program approval process, the general background on the Wyoming program, and the conditional approval can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 **Federal Register** (45 FR 78637–78684).

Proposed Amendment

On June 10, 1985, the State of Wyoming submitted to OSM an amendment to its approved regulatory program. the amendment addresses revisions to eight chapters of the approved permanent program regulations which are administered by the Wyoming Land Quality Division. Specifically, the amendment consists of revisions to the following Chapters:

Chapter II—Requires applicant to submit detailed blasting plan as part of the mining and reclamation plan.

Chapter III—Provides for a preapplication determination by the Administrator of the LQD, if requested, as to the existence and extent of any alluvial valley floor.

Chapter V—Adds clarifying language, in response to revisions to Federal provisions, concerning mining through alluvial valley floors, impacts of such mining on farming, post-mining management of auger holes and recognition of remining as a special category of mining.

Chapter VI—Revises the use of explosives provisions in light of the revisions to the Federal rules in the area of blasting standards and record keeping.

Chapter VII—Provides for the submission of a detailed subsidence control plan when the likelihood of material damage exists as a result of underground mining.

Chapter XI—Revises the notification requirements for coal exploration activities which do not substantially distrub the natural land surface.

Chapter XVI—Revises the notification requirements for bond release activities including the bond release inspection and provides citizens the opportunity to request an informal conference on pending bond release decisions.

Chapter XVIII—Revises provisions concerning content requirements for petitions to designate lands unsuitable for mining, timeframes for processing petitions, and allows for supplemental information concerning coal resources.

In accordance with the provisions of 30 CFR 732.15 and 732.17, OSM is seeking comments from the public on the adequacy of the proposed modifications and on the proposal to make the decision on the proposed program amendment retroactive to October 22, 1984, to coincide with the promulgation date of this requlation package by the Wyoming Secretary of State. Retroactive approval is necessry to ensure no adverse effect on State enforcement actions taken since that date, and is reasonable because no one will be unreasonably injured as a result of detrimental reliance on a later effective date because the State has been enforcing these regulations since October 22, 1984. If approved, the proposed amendment will become part of Wyoming's permanent regulatory program.

The full text of the program modification submitted by Wyoming for OSM's consideration is available for public review at the addresses listed under **"ADDRESSES."**

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemakfng.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would 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.*)

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* The rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 15, 1985.

Jed Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–17279 Filed 7–19–85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OW–3–FRL–2867–6]

Maryland's Application To Administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: In a letter dated June 1, 1983, Mr. William M. Eichbaum, Assistant Secretary for Environmental Programs of the Maryland Department of Health and Mental Hygiene, requested approval of the State of Maryland Pretreatment Program, and submitted a signed statement from the Maryland Attorney General that the State of Maryland has the necessary authority, along with a description of how the State proposes to operate the program. The Office of Regional Counsel in U.S. EPA Region III has reviewed the Attorney General statement and has determined that the State of Maryland has legal authority to implement an NPDES Pretreatment Program. This notice provides for a comment period on Maryland's request. Under U.S. EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received. The Administrator has delegated this authority to the Regional Administrator.

DATE: To be considered, comments must be received on or before August 21, 1985. Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, U.S. EPA will schedule a hearing. In the event U.S. EPA determines to hold a public hearing, prior notice of the date, time, and location of such a hearing will be given. All requests for a public hearing must be submitted on or before the expiration of the comment period.

ADDRESS: Comments should be addressed to: U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA. 19107, Attention: Mr. Jeffrey W. Hass, Water Permits Branch (3WM51).

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey W. Hass, Water Permits Branch (3WM51), U.S. EPA, Region III, 841 Chestnut Building, Philadelphia PA. 19107; 215/597-3689.

SUPPLEMENTARY INFORMATION: On June 26, 1978, the United States Environmental Protection Agency (U.S. EPA) promulgated the general Pretreatment Regulations (40 CFR Part 403). Amendments to the General Pretreatment Regulations were promulgated on January 28, 1981. These regulations mandated by the Clean Water Act of 1977 (Pub. L. 95-217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) Prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) Prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and (3) Improve the feasibility of recycling and reclaiming municipal and industrial wastewater and sludges.

The State of Maryland received NPDES permit authority on September 5, 1974. One of the keystones of the industrial waste control program as set forth in the general Pretreatment Regulations is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) permit program. In order to be approved, a request for State Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program as specified in § 403.10 of the Regulations. Generally, local Pretreatment Programs will be the primary vehicle for administering, applying, and enforcing Federal Pretreatment Standards for Industrial Users of POTWs. States will be required to apply and enforce Pretreatment Standards directly against industries that discharge to POTWs where local programs are not required or have not been developed.

The Regional Administrator's decision to approve or disapprove the proposed pretreatment program will be based on a determination of whether the proposed program meets the requirements of the Clean Water Act and 40 CFR Part 403 and on the comments received.

The Maryland submission may be reviewed by the public at the State of Maryland, Department of Health and Mental Hygiene, 201 W. Preston Street, Baltimore, MD. 21201, and the U.S. EPA office of Philadelphia at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at cost of 20 cents a page) from these offices.

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

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: July 5, 1985.

James M. Seif,

Regional Administrator, Region III.

[FR Doc. 17201 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1241

[Docket Ex Parte No. 460]

Certification of Railroad Annual Report R-1 by Independent Accountant

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed rulemaking.

SUMMARY: This proceeding was initiated by Notice of Proposed Rulemaking (NPRM), 50 FR 18539 (May 1, 1985), with comments due June 17, 1985. The NPRM proposed to have the railroads' independent accountants certify the annual reports filed with the Commission. A petition was filed by the Association of American Railroads (AAR) on June 17, 1985, requesting an additional 30 days to file comments. The Commission granted the AAR's request and extended the comment deadline to July 17, 1985. This action was noticed in the **Federal Register** (50 FR 25282) on June 18, 1985. This Notice supersedes the notice of June 18, 1985, and extends the time for filing comments an additional 30 days.

DATE: Comments must be received by August 16, 1985.

ADDRESS: Send comments (original and 15 copies) to: Docket Ex Parte No. 460, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: By petition filed July 11, 1985, the AAR has requested an additional 30-day extension of the comment deadline to develop an alternative to the certification program proposed in the NPR published in the **Federal Register**, 50 FR 18539 (May 1, 1985), and clarified in our Notice of June 18, 1985. The AAR states that their proposal would be feasible for the accounting community and the railroad industry while satisfying the needs of the Commission.

The development of a positive alternative proposal would assist the Commission in considering the change to certification of the R-1 data. For that reason, we believe an additional 30-day extension of time is warranted to give parties an opportunity to provide a positive alternative proposal.

It is ordered

The date for filing comments is extended to August 16, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: July 15, 1985.

James H. Bayne,

Secretary.

[FR Doc. 85-17294 Filed 7-19-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Nontoxic Shot Approval Procedures

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed revision of rule.

SUMMARY: Traditionally, shotshell loads used in hunting waterfowl have been made of lead. As a consequence, spent lead shot is deposited in feeding areas by hunters, where it is frequently mistaken for seeds or grit and ingested by migratory birds and other wildlife. Moreover, spent lead shot that is lodged in the muscle tissue or contained in the digestive tract of the prey of certain predators, such as bald eagles, is sometimes ingested by these predators as they consume the prey. Ingested lead pellets from either source are known to cause sickness or death to migratory birds and other wildlife.

A procedure was developed in 1976 for obtaining nontoxic status for

shotshell loads that might be used as an alternative to lead shot (50 CFR 20.134). The Service had finalized at that time a regulation requiring nontoxic shot for waterfowl hunting in certain areas (50 CFR 20.21(j)). The descriptions of areas in which nontoxic shot is required are presented in 50 CFR 20.108. The only approved nontoxic shot at the present time is steel shot.

It is the responsibility of the Director of the Fish and Wildlife Service to determine the nontoxic status of shot materials to be used for migratory bird hunting (50 CFR 20.134(a)). Considerable information has accumulated on the subject of lead poisoning among birds since nontoxic shot approval procedures were first developed in 1976. The procedures developed in 1976 were reviewed in 1984 and found to be inadequate in several respects. This proposed rule is offered by the Service as a revision of 50 CFR 20.134.

DATE: Comments on this proposal will be accepted until September 20, 1985.

ADDRESS: Submit comments to Director (FWS/MBMO), Room 536 Matomic, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The proposed revision presented below differs from the current version of 50 CFR 20.134 in the following ways:

1. The current regulation requires extensive ballistics and toxicity testing before an application can be made. The proposed revision allows for exchanges of information between the developer and the Director and guidance from the Director prior to extensive and relatively costly testing.

2. The current regulation is inflexible with respect to testing procedures. The proposed revision allows for adjustments in procedures by the Director based upon information gathered during preliminary tests. The Director can approve or reject a candidate material prior to completion of the entire series of tests, or require additional tests, if necessary.

3. The current procedure compares the toxicity of the candidate material to the toxicity of lead. In this proposed revision the candidate material is compared to steel shot and to lead shot.

4. The current rule has rigid timeframes for public comment and for decisions by the Director. The proposed revision allows the Director to adjust these schedules to the information needs relating to a particular material being tested.

5. Both the current rule and the proposed revision place responsibility for testing and the costs of testing on the developer. However, the proposed revision establishes a procedure that allows the Director to consult with the developer to make certain that expenditures by the developer relate to questions essential to the Director's decision regarding the status of the shot material.

This rule will not result in the collection of information from, or place recordkeeping requirements on, the public under the Paperwork Reduction Act of 1980. Since there have been no applications submitted since 1976, and the revisions will not relieve the developmental costs, the Service feels that there will not be 10 or more persons submitting applications within the foreseeable future. Therefore, clearance under 44 U.S.C. 3501 is not required. In accordance with Executive Order 12291, it has been determined that this rule is not a major rule. Since no application has been received since 1976, and not more than one or two applications are likely to occur over the next few years, it is unlikely that the current regulations or this proposed revision will have any economic effect on small entities. Therefore, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it was determined that this rule would not have a significant economic effect on a substantial number of small entities. A copy of the analysis relating to these decisions, Determination of Effects of Proposed Revision of Nontoxic Shot Approval Procedures, can be obtained from the U.S. Fish and Wildlife Service (MBMO), Washington, D.C. 20240.

This proposed rule was authored by Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

PART 20—[AMENDED]

In light of the foregoing, 50 CFR Part 20 is proposed to be amended as follows:

1. The authority citation continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

2. Section 20.134 is proposed to be revised by removing the present wording in its entirety and replacing with the following:

§ 20.134 Nontoxic shot

(a) *Approval.* The Director, U.S. Fish and Wildlife Service, shall determine that a specific type of shot material is acceptable for the purposes of § 20.21(j) if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, it is concluded that the shot material can be used without imposing a significant danger to migratory birds or their habitats.

(b) *Procedures.* (1) Applicant submits to the Director:

(i) A minimum of 25 pounds of the candidate shot in size #4.

(ii) A description of shot composition and a statement of the expected composition variability during large-scale production.

(iii) The applicant's assessment of the ballistic characteristics of the candidate shot.

(iv) The applicant's assessment of the potential toxicity of the candidate shot to migratory birds and other wildlife species as compared to lead and steel shot.

(v) The applicant's assessment of the environmental fate of the candidate shot and of any human health or safety issues that may be of concern.

(2) If the Director concludes that this candidate is worthly of further testing, the applicant is notified to submit a plan for conducting initial screening evaluations as outlined in paragraph (c)(1) below. The Director specifies what portion of (c)(1) should be conducted and any modifications to the procedures that might be necessary.

(3) The Plan submitted by the applicant is reviewed by the Director. The Director, or authorized representative, will inspect laboratory facilities to be used.

(4) Initial screening tests, if approved, are then conducted, analyzed, and reported by the applicant to the Director.

(5) The Director reviews results, analytical procedures, and conclusions from screening tests. Guidance concerning further testing will be made by the Director within 30 days of receipt of the report.

(6) If the Director feels that the candidate material has possibilities, the applicant will be advised on the second phase of tests (paragraph (c)(2)). The applicant is advised to develop and submit a plan for conducting a 30-day dosing test using mallards on a

nutritionally complete diet (Test Number 1, (c)(2)).

(7) The Plan for conducting the 30-day dosing test on a nutritionally complete diet is submitted to the Director for review and approval. The Director, or authorized representative, inspects the test facilities and reviews the test procedures.

(8) Test Number 1, if approved, is then conducted, analyzed, and reported by the applicant to the Director.

(9) The Director reviews the report and provides guidance concerning further testing within 30 days of receipt of the report.

(10) This process of requesting a plan, reviewing the plan, accepting or rejecting the plan, conducting tests, analyzing results, reporting to the Director, followed by a decision by the Director to continue or terminate testing can occur twice more as Test Numbers 2 and 3 in pargraph (c)(2) are performed.

(c) *Outline of procedures for testing.*—(1) *Initial screening tests.* These tests will be performed on the candidate shot if the initial submission of information (Paragraphs (b)(1)(i)–(v)) by the applicant indicates that it is worthy of further testing. The Director will provide instructions to the applicant concerning the conduct of the following tests.

(i) The candidate shot will be chemically analyzed by the Fish and Wildlife Service or an independent laboratory and the results will be compared to the applicant's descriptions of shot composition and composition variability.

(ii) At the applicant's expense, two independent laboratories will evaluate the ballistic characteristics of the candidate shot.

(iii) The candidate shot will be run through a standardized test (see below) that will assess its erosion in an environment simulating *in vivo* conditions of a waterfowl gizzard and its release of components into a liquid medium. Erosion characteristics will be compared to those of lead and steel shot of comparable size.

Standardized Test For Erosion Rate

Reference: Kimball, W.H. and Munir, Z.A. 1971. The corrosion of lead shot in a simulated waterfowl gizzard. J. Wildl. Mgmt. 35(2):360–365.

Material:

Atomic absorption spectrophotometer.
Drilled aluminum block to support test tubes.
Thermostatically controlled stirring hot plate.
Small teflon costed magnets.
Hydrochloric acid (pH 2.0) and pepsin.
Capped test tubes.
Lead, steel, and candidate shot.

Procedures: Hydrochloric acid and pepsin are added to each capped test tube at a volume and concentration that will erode a single #4 lead shot at a rate of 5 mg/day. Three test tubes containing either lead shot, steel shot, or candidate shot are placed in the aluminum block on the stirring hot plate. A teflon coated magnet is added to each test tube and the hot plate is set at 42° C and 500 rpm. Erosion of shot will be determined on a daily basis for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer. The 14 day procedure will be replicated five times.

Analysis: Erosion rates of the three types of shot will be compared with appropriate analysis of variance and regression procedures. The statistical analysis will determine whether the rate of erosion of the candidate shot is significantly greater or less than that of lead and steel. This determination will be important if the candidate shot is subsequently tested for toxicity.

(2) *Toxicity tests.* The three tests described in this section represent an evaluation of three major categories of toxic effects: Short-term periodic exposure, chronic exposure under adverse environmental conditions, and chronic exposure impact on reproduction. The details of the experimental procedure can be modified, if necessary, to address the specific composition and erosion characteristics of the candidate shot. The inclusion of lead shot and steel shot control groups is considered necessary for dealing with the experimental variability associated with tests being performed by different laboratories under a variety of conditions beyond control of the experimental protocol. Statistical analyses will be performed on all data from each test. Specific guidance on statistical procedures and levels of significance (0.10 through 0.01) will be provided by the Director to the applicant prior to initiation of each test. A significance level of 0.01 indicates that not more than one trial in 100 trials would produce results that contradict a finding of significant difference. Criteria of acceptability (e.g., percent of control or steel shot values for a given measure) will be employed for some of the factors being measured in the test, however, these criteria must be established in conjunction with the Director's instructions regarding statistical procedures. Toxicity tests 1–3 are designed for testing the effects of metal or metalloid shot. If the candidate is not metal or metalloid, separate testing procedures will have to be developed to evaluate the effects of the components of the candidate shot. In every case, the test animals will be exposed to the candidate material:

(i) Both acutely and chronically:

(ii) Both stressed and non-stressed by diet and temperature.

(iii) With comparisons made to lead and steel shot regarding mortality and sublethal effects.

When special consideration is given to potential impacts on species other than migratory birds and to the environmental fate of non-metal or non-metalloid candidate shot, further testing beyond that outlined in Section (c) might be required.

TEST NUMBER 1 Short-term, 30-day toxicity test using a nutritionally complete diet.

Material:

100 male and 100 female hand-reared mallards less than 8 months old.
200 elevated outdoor 1-meter square pens of vinyl-coated wire equipped with food containers and waterers.
Laboratory equipped to perform fluoroscopy, required blood and tissue assays, tissue metal analyses, and necropsies.
Commercial developer pellets for ducks.
Lead, steel, and candidate shot.

Procedures: Mallards will be housed individually in outdoor pens and given *ad libitum* access to food and water. After 3 weeks, they will be randomly assigned to 10 groups (10 males and 10 females/group) and sham-dosed (control) or dosed with two, four, or eight pellets of lead, steel or the candidate shot. Birds will be fluoroscoped 1 week after dosage to check for shot retention. Birds will be observed daily for signs of intoxication and mortality for a 30 day period. Body weight will be determined at the time of dosing, and at day 15 and 30 of the test.

On days 0, 3, 9, 15 and 30, blood will be collected by venipuncture for determination of hematocrit, hemoglobin concentration, red blood cell delta aminolevulinic acid dehydratase, and zinc porphyrin concentration. All survivors will be sacrificed on day 30, and liver delta aminolevunic acid dehydratase, and total and protein bound glutathione concentration will be determined. The liver and other appropriate organs will be removed from sacrificed birds dying prior to sacrifice on day 30. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with dealth.

Analysis: The candidate shot must cause significantly less sublethal effects than lead shot and must cause sublethal

effects that are not significantly greater than those caused by steel shot. Mortality among the three types of shot will be analyzed with appropriate chi-square procedures. Certain levels of mortality resulting from dosing of the candidate material will be acceptable using this procedure; however, the Director reserves the right to reject any candidate material that causes mortality equal to 20 percent or more of the mortality caused by comparable doses of lead shot. Physiological data and tissue residues will be analyzed by analysis of variance or other appropriate statistical procedures to include the factors of shot type, does, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will insure that copies of all the raw data and statistical analysis accompany the report of this test when it is sent to the Director.

TEST NUMBER 2 Chronic, 14-week toxicity test in cold weather using a nutritionally-deficient diet.

Material:

56 male and 56 female hand-reared mallards less than 8 months old.

112 elevated outdoor 1-meter square pens of vinyl-coated wire equipped with food containers and waterers.

Laboratory equipped to perform fluoroscopy, and required blood and tissue assays, tissue metal analysis, and necropsies.

Whole kernel corn.

Lead, steel, and candidate shot.

Procedures: Mallards will be individually assigned to outdoor 1-meter square pens of vinyl-coated-wire during the first week of December and acclimated to and *ad libitum* diet of whole kernel corn for 2 weeks. Birds will be randomly assigned to seven groups (8 males and 8 females/group) and sham-dosed (control) or dosed with one or four #4 pellets of lead, steel, or the candidate shot.

Birds will be weighed and fluoroscoped weekly. All recovered shot will be weighed to measure erosion. Blood parameters determined in Test Number 1 will be measured in blood samples drawn at the initiation of dosage, 24 hours after dosage, and at the end of weeks 1, 2, 4, 8 and 14. At the end of 84 days, all survivors will be sacrificed. The liver and other appropriate organs will be removed from the sacrificed birds and birds dying prior to sacrifice on day 84. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with death.

Analysis: The candidate shot must cause significantly less sublethal effects than lead shot and must cause sublethal effects that are not significantly greater than those caused by steel shot. Mortality among the three types of shot will be analyzed with appropriate chi-square procedures. Certain levels of mortality resulting from dosing of the candidate material will be acceptable using this procedure; however, the Director reserves the right to reject any candidate material that causes mortality equal to 20 percent or more of the mortality caused by comparable doses of lead shot. Physiological data and tissue residues will be analyzed by analysis of variance or appropriate statistical procedures to include the factors of shot type, dose, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will insure that copies of all the raw data and statistical analyses accompany the report of this test when it is sent to the Director.

TEST NUMBER 3 Chronic dosage study which includes reproductive assessment on a nutritionally-complete diet.

Material:

200 male and 200 female hand-reared mallard ducks who have not been through a reproductive season.

Pens capable of holding 5–10 ducks each.

200 elevated outdoor pens at least 1-meter square, covered with vinyl-coated wire, and equipped with feeders, waterers and nest boxes.

Laboratory equipped to perform fluoroscopy and required blood assays.

Commercial developer pellets, breeder pellets, and starter mash for ducks.

Lead, steel and candidate shot.

Procedures: Mallards will be randomly assigned to 10 groups (20 males and 20 females/group) in January and held in same-sex groups of 5–10 individuals until mid-February. The mallards will then be randomly paired and moved to outdoor pens (one pair per pen). Ducks will be provided with an *ad libitum* diet of commercial developer pellets until initiation of laying, when the pairs will be switched to breeder pellets. Ducks will be sham-dosed (controls) or dosed with three #4 pellets of lead, steel or candidate shot. Dosing will occur according to three schedules: (1) once in January, 2 weeks after intiation of the study, (2) once at the initiation of laying, and (3) at both times designated in (1) and (2).

Birds will be fluoroscoped 1 week after dosage to check shot retention, and weighed every 2 weeks. Blood parameters determined in Test Numbers 1 and 2 will be measured in blood samples drawn at initiation of the study, at time of dosing, at initiation of incubation, and at sacrifice. All birds will be sacrificed when ducklings reach 7 days of age.

Clutches will be candled to determine fertility of the eggs. Nests will be checked daily to determine the fate of eggs and ducklings. Ducklings will be provided with starter mash after hatching.

Analysis: The candidate shot must cause significantly less mortality, sublethal effects than lead shot, reproductive inhibition not significantly greater than lead shot and must cause mortality, sublethal effects, and reproductive inhibition that are not significantly greater than those caused by steel shot. Physiological and reproductive data will be analyzed by analysis of variance or other appropriate statistical procedures. The applicant will insure that copies of all raw data and statistical analysis accompany the report of this test when it is sent to the Director.

Dated: July 2, 1985.

Susan Recce,

Acting, Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-17329 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Document No. 50587-5087]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

Correction

In the document beginning on page 24242 in the issue of Monday, June 10, 1985 make the following correction:

1. On page 24250, the file line was omitted and should have appeared as follows:

[FR Doc. 85-13959 Filed 6-6-85; 10:21 am]

2. On page 24248, third column, Table 1 in § 642.29, under the heading "Ends", "Mar. 30" and "Dec. 30" should have read "Mar. 31" and "Dec. 31" respectively.

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 50, No. 140
Monday, July 22, 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

Office of the Secretary

Intent To Establish Agricultural Export Enhancement Advisory Group

The Department of Agriculture proposes to establish the Agricultural Export Enhancement Advisory Group. The purpose of the Advisory Group is to provide advice on the establishment and administration of the Agricultural Export Enhancement Program. Establishment of the Advisory Group is necessary and in the public interest in connection with duties imposed upon the Department by law.

Comments of interested persons concerning the establishment of the Agricultural Export Enhancement Advisory Group should be submitted to Richard A. Smith, Administrator, Foreign Agricultural Service, Room 5071–S, USDA, Washington, D.C. 20250 on or before August 6, 1985.

Dated: July 17, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administrotion.

[FR Doc. 85–17297 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-10-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Forest Biology (II); Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Forest Biology (II), Technical Advisory Committee for Science and Education Research Grants Programs

Date: August 22–24, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: Dupont Plaza Hotel, Dupont Circle, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Forest Biology program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Gray R. Evans, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112, Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

Gary R. Evans,

Executive Secretary, Subcommittee on Forest Biology (II).

[FR Doc. 85–17298 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-MT-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Wood Utilization; Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Wood Utilization, Technical Advisory Committee for Science and Education Research Grants Programs.

Date: August 21–23, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: U.S. Department of Agriculture, Room 320–W, Administration Building, Washington, D.C. 20250.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Wood Utilization program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Robert C. Koeppen, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112, Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

[FR Doc. 85 17299 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-MT-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Forest Biology (I); Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Forest Biology (I), Technical Advisory Committee for Science and Education Research Grants Programs.

Date: August 19–21, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: Dupont Plaza Hotel, Dupont Circle, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Forest Biology program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Gary R. Evans, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112 Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

Gary R. Evans,

Executive Secretary, Subcommittee on Forest Biology (I).

[FR Doc. 85-17300 Filed 7-19-85; 8:45 am]

BILLING CODE 3410-MT-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-455-401]

Barbed Wire and Barbless Fencing Wire From Poland; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that barbed wire and barbless fencing wire (barbed wire) from Poland are being, or are likely to be, sold in the United States at less than fair value, and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determinations, and we have directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of the subject merchandise as discussed in the section under "Continuation of Suspension of Liquidation". The ITC will determine, within forty-five days of the date of this determination, whether these imports are materially injuring, or are threatening material injury to, a U.S. industry.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; Telephone: (202) 377-5332.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that barbed wire and barbless fencing wire (barbed wire) from Poland are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). We have determined the weighted-average margin of sales at less than fair value to be 36.25 percent. The margins range from 29.51 percent to 39.08 percent on virtually all of the sales compared. We also found that critical circumstances do not exist.

Case History

On November 19, 1984, we received an antidumping duty petition from Forbes Steel and Wire Corporation, filed on behalf of domestic producers of barbed wire. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioner alleged that imports of barbed wire from Poland are being, or are likely to be, sold in the United States at less than fair value within the meaing of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a United States industry. Petitioner also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on December 9, 1984 (49 FR 48128). On January 2, 1985, the ITC determined that there is a reasonable indication that imports of barbed wire from Poland are materially injuring a U.S. industry.

A questionnaire was presented to counsel of Universal F.T.E., the only known exporter of barbed wire to the United States, on March 1, 1985. The response was received on April 8, 1985. We have determined that Poland is a state-controlled-economy country for the purpose of this investigation. This is discussed further under the "Foreign Market Value" section of this notice.

We published the preliminary determination of sales at less than fair value on May 3, 1985 (50 FR 18902). A hearing, requested by both petitioner and respondent, was held on June 4, 1985. Arguments raised in the briefs of both parties were considered for the final determination.

Scope of Investigation

The products covered by this investigation are barbed wire and barbless fencing wire, as currently provided for in items 642.0200 and 642.1105 of the Tariff Schedules of the United States Annotated (TSUSA). We investigated all sales of barbed wire, to the United States, for the period June 1, 1984, through November 30, 1984.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, the purchase price of the subject merchandise was used to represent the United States price because the merchandise was sold to an unrelated United States purchaser prior to its importation into the United States. We made deductions for foreign inland freight and ocean freight. Deductions for inland freight were based on trucking charges obtained in Italy which were applied to the distances over which the merchandise was transported, by rail, in Poland.

Foreign Market Value

In accordance with section 773(c)(1)(A) of the Act, we used prices of barbed wire sold for consumption in the home market of the surrogate country to determine foreign market value. Petitioner alleged that Poland is a state-controlled-economy country and that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(a). After an analysis of Poland's economy and consideration of the briefs submitted by the parties, we have concluded that Poland is a state-controlled-economy country for purposes of this investigation.

Our decision on this issue is mainly based on the fact that the government of Poland strictly controls the prices and levels of production of the steel industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchadise in a "non-state-controlled-economy" country. Section 353.8 (a) of our regulations established a preference for foreign maket value based upon prices at which similar merchandise is sold for consumption in the home maket of that surrogate country, or to other countries, including the United States. Our regulations further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

After an analysis of the economies of the countries producing barded wire, we determined that Italy would be an appropriate surrogate. We sent questionnaires to three Italian producers of barbed wire and, on April 18, 1985, received a response from one of them.

We based foreign market value on the weighted-average ex-mill unpacked

price in the Italian home market. An adjustment was made for differences in circumstances of sale relating to credit expenses. The adjustment was based on the number of days between shipment and payment, and interest rates, in Italy. Adjustments for differences in similar merchandise were not made since the appropriate information on factors of production for such adjustments was not available. Since the Italian producers did not utilize packing of the same type as that of the Polish sales to the United States, we valued packing in Korea, using data from Special Steel Summary Invoices.

In calculating foreign market value we made currency conversions from Italian lire to United States dollars in accordance with § 353.56(a)(1) of the Commerce regulations, using the average of the daily exchange rates, during the period, certified by the U.S. Federal Reserve.

Respondent's Comments

Comment 1: Respondent claims that adjustments for cost differences of similar merchandise should be made.

DOC Response: As stated in the "Foreign Market Value" section of this notice, information necessary for such adjustments was not available.

Comment 2: Respondent claims that the inland freight used in the preliminary determination was overstated.

DOC Response: In the preliminary determination we calculated inland freight on the basis of barge rates in the Federal Republic of Germany. At the verification we learned that all barge transportation charges were included in the ocean freight reported. Therefore, we applied Italian freight charges to the distances from the factory to the barge loading point in calculating inland freight, on sales to the United States, for purposes of this determination.

Comment 3: Respondent argues that based upon comparisons of infrastructure development and generally recognized "macro" development criteria, the United Kingdom is the most comparable surrogate for Poland for purposes of this investigation.

DOC Response: In its submissions analyzing possible surrogate countries for Poland in this investigation, respondent finds that the United Kingdom, Italy and Spain are all at a stage of economic development comparable to that of Poland. However, in our view, respondent's analysis does not support the conclusion that the United Kingdom is the most comparable of the three. Among the various "macro" development criteria studied (per capita GNP, GDP, energy production and consumption, transportation infrastructure, labor force, literacy rates, life expectancy and population growth rate), the United Kingdom was most comparable to Poland only in terms of recent growth rate of GNP and per capita energy consumption. No argument is offered as to why these particular similarities make the United Kingdom more preferable than Italy or Spain as a surrogate for Poland.

Petitioner's Comments

Comment 1: Petitioner argues that critical circumstances exist with regard to imports of this merchandise from Poland.

DOC Response: We disagree. See the "Final Negative Determination of Critical Circumstances" section of this notice.

Comment 2: Petitioner claims that inland freight should not be reduced.

DOC Response: See DOC response to Respondent's comment 2.

Final Negative Determination of Critical Circumstances

The petitioner alleged that imports of barbed wire from Poland present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we find that (1) there is a history of dumping in the United States, or elsewhere, of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise, which is the subject of the investigation, at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there have been massive imports over a relatively short period, we considered the following factors:

1. Whether recent imports have increased significantly;
2. Whether recent import penetration ratios have increased significantly;
3. Whether the pattern of recent imports may be explained by seasonal factors; and
4. Whether recent imports are significantly above average imports calculated over the last three years.

Based on our analysis of these factors, we have determined that imports of the products covered by this investigation were not massive over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping of barbed wire, or whether the person by whom or for whose account these products were imported knew or should have known that the exporters were selling these products at less than fair value.

We have determined, for the reasons described above, that "critical circumstances" do not exist with respect to barbed wire from Poland.

Verification

In accordance with section 776(a) of the Act we verified the information provided by the respondent and the Italian surrogate company using standard verification procedures, which included on-site inspection of the merchandise and examination of relevant sales and financial records of the companies.

Continuation of Suspension of Liquidation

We are directing the United States Customs Service to continue to suspend liquidation of all entries of barbed wire from Poland that are entered, or withdrawn from warehouse, for consumption, on or after May 3, 1985, the date of publication of our notice of preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. The bond or cash deposit rate for entries or withdrawals made on or after the publication of this notice is 36.25 percent.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within

45 days after we make our final determination. If the ITC determines that material injury, or threat of material injury, does not exist this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on barbed wire from Poland which were entered, or withdrawn from warehouse, for consumption on or after May 3, 1985, the publication date of the preliminary determination in the **Federal Register**, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

July 15, 1985.

[FR Doc. 85-17333 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-405]

Cellular Mobile Telephones and Subassemblies From Japan; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from several respondents in this investigation to postpone the final determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on these requests, we are postponing our final antidumping duty determination as to whether sales of cellular mobile telephones and subassemblies from Japan have occurred at less than fair value until not later than October 24, 1985.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann Jr., Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-4929.

SUPPLEMENTARY INFORMATION: On November 5, 1984, we announced the initiation of an antidumping duty investigation to determine whether cellular mobile telephones and subassemblies from Japan, are being, or are likely to be, sold in the United States at less than fair value (49 FR 47076). We published our preliminary affirmative determination on June 11, 1985 (50 FR 24554). That notice stated that we would issue a final determination by August 19, 1985. On June 19 and July 2, 1985, counsel for Toshiba Corporation, Mitsubishi Electric Corporation and Matsushita Communications Industrial Co., Ltd., three of the six respondents in the investigation, requested that we extend the period for the final determination until not later than the 135th day after publication of our preliminary determination in accordance with section 735(a)(2)(A) of the Act. These respondents account for a signficant proportion of exports of the subject merchandise to the United States, and thus are qualified to make this request. If qualified exporters properly request an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the requests. Accordingly, we grant the request and postpone our final determination until not later than October 24, 1985. The date of the public hearing has also been changed to September 9, 1985, at 9:00 AM in room 4830 of the Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Prehearing briefs in at least 10 copies must now be submitted to the Deputy Assistant Secretary by August 30, 1985.

This notice is published pursuant to section 735(d) of the Act.

Scope of Investigation

The products covered by this investigation are cellular mobile telephones (CMTs), CMT transceivers, CMT control units, and subassemblies dedicated for use in CMTs. CMTs are radio-telephone equipment designed to operate in a cellular radio-telephone system, i.e., a system that permits mobile telephones to communicate with traditional land-line telephones via a base station, and that permits multiple simultaneous use of particular radio frequencies through the division of the system into independent cells, each of which has its own transceiving base station. Each CMT generally consists of (1) a transceiver, i.e., a box of electronic subassemblies which receives and transmits calls; and (2) a control unit, i.e., a handset and cradle resembling a modern telephone, which permits a motor-vehicle driver or passenger to dial, speak, and hear a call. They are designed to use motor vehicle power sources. Cellular transportable telephones, which are designed to use either motor vehicle power sources or, alternatively, portable power sources, are included in this investigation.

Subassemblies are any completed or partially completed circuit boards, circuit modules and/or any packaged assemblage of electronic components, the value of which is equal to or greater than five dollars, and which are dedicated for use in CMT transceivers or control units. Examples of such subassemblies are circuit boards and/or modules containing any of the following circuitry or combinations thereof: audio processing, signal processing (logic), RF, IF, synthesizer, duplexer, power supply, power amplification, transmitter, and exciter.

The following merchandise has been excluded from this investigation: Pocket-size self-contained portable cellular telephones, cellular base stations or base station apparatus, cellular switches, and mobile telephones designed for operation on other, non-cellular, mobile telephone systems.

Cellular mobile telephones and subassemblies are no longer classified under item numbers 685.23, 685.24 and 685.29 of the Tariff Schedules of the United States (TSUS), as was reported in the preliminary determination. They are currently classified under TSUS numbers 685.28 and 685.32.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 15, 1985.

[FR Doc. 85-17336 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-403]

Certain Welded Rectangular Carbon Steel Pipes and Tubes From Taiwan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain welded rectangular carbon steel pipes and tubes (pipes and tubes) from Taiwan are being, or are likely to be, sold in the United States at less than fair value and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the

U.S. Customs Service to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by September 30, 1985.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that pipes and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) (19 U.S.C. 1673b(b)) of the Tariff Act of 1930, as amended (the Act). The margin preliminarily found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. We have also preliminarily determined that "critical circumstances" do not exist with respect to imports of this product from Taiwan.

If this investigation proceeds normally, we will make our final determination by September 30, 1985.

Case History

On December 18, 1984, we received a petition filed by the Mechanical Tubing Subcommittee of the Committee on Pipe and Tube Imports, on behalf of the U.S. industry producing certain welded rectangular carbon steel pipes and tubes. In compliance with the filing requirements of § 353.36 of Commerce Regulations (19 CFR 353.36), the petition alleged that imports of pipes and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on January 11, 1985 (50 FR 1614). On February 1, 1985, the ITC subsequently found that there is a reasonable indication that imports of pipes and tubes from Taiwan are materially injuring or threatening to materially injure a United States industry.

The petitioner alleged that two companies in Taiwan produced pipes and tubes for export to the United States. We found that Yieh Hsing accounted for virtually all of the sales of the subject merchandise from Taiwan during the period of investigation. A questionnaire was presented to counsel for Yieh Hsing on February 14, 1985. Yieh Hsing responded to our questionnaire on April 9, 1985.

After reviewing the questionnaire response, counsel for the petitioner alleged that sales of rectangular pipe from Taiwan are being made at below the cost of production, and petitioner requested that the deadline for the preliminary determination be extended for 50 days in order to allow sufficient time for the cost of production investigation. On May 8, 1985, we postponed the preliminary antidumping duty determination for 50 days, or not later than July 16, 1985 (50 FR 20255). On May 23, 1985 we sent a cost of production questionnaire to the respondent. On June 27, 1985 we received a response to our questionnaire. The response was deficient in that it did not properly allocate costs for the various sizes of pipes and tubes under investigation, and that a theoretical instead of an actual factor weight was used for the cost of production. Therefore, we used the best information available to determine the cost of production. The best information available was cost information submitted by petitioner, which is based on costs of raw materials, labor, and general expenses, excluding profit, incurred in producing such or similar merchandise.

Scope of Investigation

The products under investigation are welded rectangular (including square) carbon steel pipes and tubes having a walk thickness of less than 0.156 inch, as currently classified in the Tariff Schedules of the United States, Annotated (TSUSA), under item 610.4928.

Since the respondent produced and exported virtually all of the rectangular pipes and tubes from Taiwan during the period of investigatin, we limited our investigation to that one company.

We investigation sales of certain welded rectangerlar carbon steel pipes and tubes from Taiwan during the period from July 1 through December 31, 1984

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of pipes and tubes to represent the United States price for sales by the respondent because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the c.&f. price to unrelated purchasers in the United States. We made deductions, where appropriate, for inland freight, ocean freight, brokerage and handling, stamp tax, and export charges.

Foreign Market Value

In calculating foreign market value we used constructed value in accordance with section 773(e) of the Act. There was no viable home market. Petitioner alleged and we found that all sales to the largest third country market were at prices below the cost of production. For cost of production, we used the "best information available," which was based on cost data submitted by petitioner. Accordingly, we disregarded third country prices and used constructed value in making our comparisons.

Since respondent's cost of production information was deficient, cosntructed value was based on best information available. Best information available was the cost of production submitted by petitioner, which was based on the cost of materials, labor, and general expenses. To the cost of materials and labor, we added the statutory minimum of 10 percent for selling, general, and administrative expenses and the statutory minimum of 8 percent profit, as required in section 773 of the Act, since the cost information furnished by petitioner did not include general expenses and profit.

In calculating foreign market value we made currency conversions from Taiwan dollars to United States dollars in accordance with § 353.56(a)(1) of our regulations.

Preliminary Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of pipes and tubes from Taiwan present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or

for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of pipes and tubes from Taiwan in the United States or elsewhere, we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found one past antidumping determination on the same product being imported into Australia. Since there is a history of dumping, we did not need to consider whether to impute knowledge of dumping.

We then considered whether there were massive imports. We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels, (2) whether imports have surged recently, (3) whether the recent imports are significantly above the average calcuated over the last three years; and (4) whether the pattern of imports over that three years period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels and import penetration ratios for pipes and tubes from Taiwan for the periods immediately preceding and subsequent to the filing of the petition. Based on our analysis of recent trade data, we find that imports of pipes and tubes from Taiwan during the period subsequent to the receipt of the petition have not been massive when compared to recent import levels and import penetration ratios.

Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of certain pipes and tubes from Taiwan.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of pipes and tubes from Taiwan which are entered, or withdrawn from warehouse, for consumption, on or after the date of the publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Dumping margins (percent)
Yieh Hsing	34.34
All other manufacturers/producers and exporters	34.34

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 9, 1985, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 2, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert Bl Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 16, 1985.

[FR Doc. 85-17334 Filed 7-19-85; 8:45 am]

BILLING CODE 35-DS-M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 443]

Marine Mammal Permit Modification; Southwest Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), Permit No. 443 issued to Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038 on March 5, 1984 (49 FR 8057) is modified as follows:

Section C is deleted and replaced by:

"C. All General Conditions attached as Section C shall apply and are made a part hereof except Sections C-2(g), C-3, C-4, C-6 and C-7 are specifically waived."

This modification became effective on July 16, 1985.

Documents in connection with the above modification and Permit are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 16, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-17307 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Dr. Howard E. Winn

On April 18, 1985, notice was published in the **Federal Register** (50 FR 15472) that an application had been filed by Dr. Howard E. Winn (P12F), Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island 02881 for a scientific research permit to harass cetaceans off

the east coast of the United States and humpback whales worldwide.

Notice is hereby given that on July 12, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service (NMFS) issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, NW, Washington, D.C.;
Regional Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802;
Regional Director, Northeast Region, NMFS, 14 Elm Street, Federal Building, Gloucester, MA 01930;
Regional Director, Northwest Region, NMFS, 7600 Sand Point Way, N.E., BIN C15700, Seattle, WA 98115;
Regional Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and
Regional Director, Southwest Region, NMFS, 300 So. Ferry Street, Terminal Island, CA 90731.

Date: July 12, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation National Marine Fisheries Service

[FR Doc. 85–17306 Filed 7–19–85; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 17, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 23, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 28, 1984 a notice was published in the **Federal Register** (49 FR 50434) announcing the import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in China and exported to the United States during the agreement year which began on January 1, 1985.

During consultations held May 20–24, 1985 under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, the Governments of the United States and the People's Republic of China agreed to establish specific limits for the following products: twill and sateen in Category 317, dresses in Category 336, underwear in Category 352, coveralls, overalls and similar apparel in Category 359pt. (only T.S.U.S.A. numbers 379.0822, 379.6410, 383.0828 and 383.5053), women's, girls', and infants' suits in Category 444, women's, girls', and infants' knit shirts and blouses in Category 639, and polypropylene bags in Category 669pt. (only T.S.U.S.A. number 385.5300), produced or manufactured in China and exported during the agreement year which began on January 1, 1985. The United States Government has decided to control imports in these categories at the agreed limits. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry, or withdrawal from warehouse, for consumption in the United States of textile products in the foregoing categories in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 17, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of April 3, May 21, June 27, and August 22, 1984 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool, and man-made fiber textile products, produced or manufactured in China and exported during designated restraint periods.

Under the terms of Section 204 of the Agricultural Act 1956, as amended (7 U.S.C. 1954), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on July 23, 1985, to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 317, 336, 352, 359pt.[1] 444, 639 and 669pt.[2], produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, in excess of the following limits:

Category	12-mo restraint limit[3]
317	15,600,000 square yards of which not more than 3,120,000 square yards shall be in TSUSA items 320.—through 331.—with statistical suffixes 50, 87 and 93.
336	116,450 dozen.
352	1,254,000 dozen.
359pt.[1]	708,750 dozen.
444	15,150 dozen.
639	958,375 dozen.
669pt.[2]	2,491,000 pounds.

[1] In Category 359, only TSUSA numbers 383.5027 and 379.6410, 379.0822; 383.0828.
[2] In Category 669, only TSUSA number 385.5300.
[3] The limits have not been adjusted to account for any imports exported after December 31, 1984.

In carrying out this directive textile products in the foregoing categories which have been exported to the United States during the agreement year which began on January 1, 1984 and extended through December 31, 1984, shall, to the extent of any unfilled balance, be charged against the restraint limits established for such goods during that twelve-month period. In the event the restraint limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

Textile products in the foregoing Categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption

[1] In Category 359, only TSUSA numbers 383.5027 and 379.6410, 379.0822; 383.0828.

[2] In Category 669, only TSUSA number 385.5300.

to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17330 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcing an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Turkey

July 17, 1985

On May 10, 1985 a notice was published in the **Federal Register** (50 FR 19776) announcing that, on April 30, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Turkey to enter into consultations concerning exports to the United States of cotton twill fabric in Category 317pt. (only T.S.U.S.A. numbers 320.— through 331.— with statistical suffixes 51, 52, 85, 89, 91, and 95), produced or manufactured in Turkey.

The purpose of this notice is to advise the public that, inasmuch as no agreement has been reached on a mutually satisfactory solution concerning this category in consultations held June 17–19, 1985, the United States Government has decided to control imports in Category 317pt., produced or manufactured in Turkey and exported during the twelve-month period which began on April 30, 1985 and extends through April 29, 1986 at a level of 6,441,771 square yards.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 317pt. in excess of the designated restraint limit.

For Further Information Contact: Anne Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 17, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 23, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 317pt.[1] produced or manufactured in Turkey and exported during the twelve-month period which began on April 30, 1985 and extends through April 29, 1986, in excess of 6,441,771 square yards.[2]

Textile products in Category 317pt.[1] which have been exported to the United States prior to April 30, 1985 shall not be subject to this directive.

Textile products in Category 317pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

[1] In Category 317, only T.S.U.S.A. numbers 320.— through 331.— with statistical suffixes 51, 52, 85, 89, 91, and 95.

[2] The level has not been adjusted to reflect any imports exported after April 29, 1985.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17331 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF EDUCATION

Office for Civil Rights; Proposed Annual Operating Plan for Fiscal Year 1986

AGENCY: Department of Eduation.

ACTION: Notice of proposed annual operating plan for fiscal year 1986.

SUMMARY: The Secretary of Education invites comments on the proposed FY 1986 Annual Operating Plan (AOP) for the Office for Civil Rights (OCR).

DATES: Comments must be received on or before September 5, 1985.

ADDRESS: All comments concerning the AOP should be addressed to Harry M. Singleton, Assistant Secretary for Civil Rights, Department of Education, 400 Maryland Avenue SW Room 5000, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Fred Tate, Department of Education, 400 Maryland Avenue SW., Room 5000, Washington, D.C. 20202, (202) 732–1479.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Office for Civil Rights (OCR) is responsible for ensuring that no person is unlawfully discriminated against on the basis of race, color, national origin, sex, handicap, or age, in the delivery of services or the provision of benefits, in programs or activities receiving financial assistance from the Department of Education (ED). The jurisdictional authorities under which OCR operates are Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

These authorities cover ED funded programs and activities carried out by 50 State education and rehabilitation agencies and those of their subrecipients, as well as those of the District of Columbia and the territories and possessions of the United States; 15,840 local education agencies; and 3,300 institutions of higher education. In addition, OCR's civil rights authorities cover programs and activities in other institutions that receive ED funds, such as libraries and museums.

OCR ensures compliance with Federal civil rights statutes by the recipients of ED financial assistance through two

basic types of activities: compliance activities and technical assistance activities. Most of OCR's compliance activities (including complaint investigations, compliance reviews and monitoring the implementation of some voluntary compliance plans) are required by the *Adams* court orders. However, OCR has some discretion over where it will conduct its compliance review and other monitoring activities and what those activities will cover. For the most part, OCR concentrates its investigative activities on those recipients that have been identified as having possible compliance problems. OCR also provides technical assistance, including the transfer of information, material, and skills to facilitate ED recipients' voluntary compliance with civil rights laws and to inform beneficiaries of their rights.

Compliance activities and technical assistance activities also may be combined. OCR may provide technical assistance to recipients at any time after the initiation of a compliance review or complaint investigation, or following its conclusion, either in response to a request from a recipient or after an inquiry by investigative staff as to whether a recipient would be interested in such assistance. As a result, compliance issues may be resolved in a nonconfrontational manner that facilitates closer cooperation at the recipient level while assuring that the rights of beneficiaries are protected.

During FY 1986, OCR will continue to use two operational techniques designed to improve the efficiency of the case handling process. The first, Early Complaint Resolution (ECR), is a process in which OCR acts as a mediator between the complainant and the recipient to negotiate a settlement between them. If the mediation is successful, OCR closes the complaint without an investigation. If the parties cannot reach an agreement, OCR investigates the complaint. During the first half of FY 1985, ECR was offered in 139 complaints and accepted in 87 complaints (63 percent). Of those cases in which ECR was offered and accepted, 57 (66 percent) were resolved through mediation.

The second technique is pre-letter of findings (LOF) settlement. With this process OCR reviews its findings with the recipient on each of the issues raised in the complaint or covered by the compliance review in an attempt to reach a settlement prior to the issuance of an LOF addressing areas of non-compliance. When settlement is reached, OCR sets forth the terms of the settlement, along with the applicable statutory requirements, in an LOF sent to the recipient. Where the settlement results from a complaint, the complainant is also sent a copy of the LOF. If an area of noncompliance has been resovled, the LOF cites the basis for the violation findings and the remedy adopted by the recipient. OCR then monitors the implementation of these agreements.

It should be noted that the activities planned by OCR in FY 1986, and outlined below, are consistent with the appropriations authorized by Congress and approved by the President.

The following narrative and table describe the activities that OCR plans for FY 1986.

II. Compliance and Enforcement Activities

OCR's compliance and enforcement responsibilities are divided into three general categories: complaint investigation, compliance reviews, and monitoring activities.

A. *Complaint Investigations.* OCR's primary compliance activity is the investigation and resolution of complaints alleging discrimination. Each timely, complete complaint must be resolved in accordance with established procedures and time frames.

OCR received 1,003 complaints and closed 899 (some of which had been filed prior to the beginning of the fiscal year) during the first half of FY 1985. OCR had 955 open complaints as of March 31, 1985. Alleged discrimination against handicapped persons was the basis of approximately 53 percent of complaint receipts; race, multiple bases, sex, national origin, and age complaints followed in descending order of frequency. The largest number of complaints involved elementary and secondary schools. In the first half of FY 1985, 77 percent of the complaints received involved issues of service delivery to students, 16 percent involved various employment issues, 2 percent involved both, and 4 percent involved other issues.

B. *Compliance Reviews.* OCR's compliance review program complements its complaint investigation activities. Compliance reviews differ from complaint investigations in that OCR has some discretion in selecting the issues and institutions for review. This permits OCR to target resources on compliance problems that appear to be serious or national in scope and that may not have been raised by complaints.

During the first half of FY 1985, OCR initiated compliance reviews of 88 recipients; the Table on compliance review starts, included in this plan, gives information on the number of reviews initiated for each issue. During this same period, OCR closed 87 reviews, some of which had been initiated prior to the beginning of FY 1985. OCR had 148 open compliance reviews as of March 31, 1985.

During FY 1986, pursuant to the December 29, 1977 *Adams* order (*Adams* v. *Califano*, No. 3095–70 (D.D.C. December 29, 1977)) OCR intends to conduct an appropriate number of compliance reviews to ensure adequate enforcement of the civil rights laws.

While some review activities are required by the *Adams* order, most compliance reviews are discretionary and represent the only area in which OCR has flexibility to choose the institutions to be investigated, the issues to be examined, and the dates on which the reviews will begin. Selection of review sites has, in the past, been based on various sources of information, including survey data indicating potential compliance problems and information provided by complainants, interest groups, the media, and the general public. In order to provide greater flexibility in the targeting of institutions and to help validate OCR's current targeting methods, OCR initiated a random site selection program for compliance reviews in some regional offices during FY 1984. This experiment is designed to determine the relative effectiveness of a statistically random compliance review site selection compared with the traditional form of site selection in which regions nominate sites based on criteria set forth by the Assistant Secretary. The experiment calls for five regions to select randomly compliance review sites. Of the five, two regions employ random site selection for 100 percent of their compliance reviews. Three of the five regions employ random site selection for 50 percent of their selections and traditional methods for the remainder. The remaining five regions employ traditional compliance review site selection techniques for all reviews. The random site selection program for compliance reviews is continuing and evaluation results of the effectiveness of this alternative site selection procedure are expected in the near future.

C. *Monitoring Activities.* OCR closes many of the complaints and compliance reviews in which it has identified violations of civil rights statutes on the basis of a commitment by the recipient institution to complete remedial action at a future date. OCR has a responsibility to ensure that agreements to complete such remedial actions are carried out. To fulfill that responsibility,

OCR may require a recipient to submit one or more progress reports detailing efforts to come into compliance with applicable laws. In some cases, OCR may go on-site to monitor a recipient's compliance with a negotiated remedial action plan. Other types of OCR monitoring activities include monitoring of higher education desegregation plans pursuant to the March 24, 1983 *Adams* order, (*Adams* v. *Bell*, No. 3095–70 (D.D.C. March 24, 1983)) and vocational education Methods of Administration. In FY 1986, OCR will monitor the following:

- Implementation by recipient institutions of remedial action plans resulting from OCR complaint investigations and compliance reviews.
- Implementation of *Adams* higher education desegregation plans of approximately 416 institutions of higher education in 13 States.
- Review and implementation of corrective action plans to provide educational opportunities to national origin minority students who are limited English proficient (i.e., Title VI *Lau* plans).
- Activities of 50 States, four territories, and the District of Columbia, to ensure that they fulfill their Methods of Administration responsibilities under the Vocational Education Guidelines and the July 1979 Memorandum of Procedures regarding the civil rights compliance of their vocational education subrecipients.

III. Technical Assistance Activities

Technical assistance complements OCR's compliance activities because it encourages voluntary compliance. Through technical assistance, OCR is able to reach a far greater number of recipients than it could solely through complaint investigations or compliance reviews. OCR provides technical assistance to recipients to inform them of their responsibilities under the civil rights statutes and the ED implementing regulations and of means to meet these responsibilities. OCR provides technical assistance to beneficiaries to inform them of their rights under the civil rights statutes and to explore voluntary methods of securing those rights. During FY 1985, in addition to responding to requests for technical assistance, OCR regional offices were encouraged to increase technical assistance outreach activities, to the extent staff resources were available, based on ongoing assessments of recipient and beneficiary needs.

In FY 1986, OCR will conduct the following technical assistance activities:

- Continue development and implementation of Memoranda of Understanding with State and human rights agencies to facilitate meeting mutual civil rights compliance goals and objectives and to promote the sharing of information.
- Coordinate with other ED program offices on the provision of civil rights related technical assistance.
- Facilitate the exchange of information, materials, technical assistance strategies, techniques, and successful compliance practices and procedures among OCR staff providing technical assistance.
- Provide materials and courses to OCR regional investigators and legal staff to facilitate the provision of technical assistance training to education institutions and State and local governments.
- Provide training to State and local education agencies to enhance their capabilities to carry out civil rights activities.
- Prepare materials for dissemination to recipients and beneficiaries, summarizing and explaining OCR policies and regulations.

IV. Program Management Activities

In conducting its compliance, enforcement, and technical assistance activities, OCR continues to implement a comprehensive program that includes—

- Formulating or updating regulations, policies, and investigative manuals, including—

—Promulgating ED regulations to implement the Age Discrimination Act of 1975;

—Amending the Title IX and Section 504 regulations to provide for vocational education Methods of Administration;

—Revising the benefits of employment section of the Title IX regulation to reflect the Supreme Court's decision in *Arizona Governing Committee* v. *Norris*, 103 S.Ct. 3492 (1983);

- Providing technical guidance on complaints and compliance reviews referred from regional offices;
- Conducting hearings before Administrative Law Judges on the compliance of Federal financial recipients with civil rights requirements;
- Meeting with congressional staffs, school district representatives, college and university officials, complainants, and civil rights groups to discuss OCR activities;
- Conducting and evaluating OCR surveys and data collection projects to obtain information on recipients and beneficiary populations for enforcement purposes;
- Providing in-house programmatic training to investigators and legal staff engaged in civil rights compliance activities;
- Conducting a quality assurance program to systematically review, evaluate, and recommend improvements in OCR operations; and
- Operating a Management-by-Objectives program designed to enhance management planning and to track performance in meeting organizational goals.

V. Summary

While regional programs will vary due to considerations such as the number and type of complaints received, compliance reviews conducted, and requests for technical assistance, all OCR activities will be guided by national policies, priorities, and direction. As in previous years, each Regional Director will be responsible for timely fulfillment of OCR's obligations in handling complaint investigations and compliance reviews, monitoring compliance plans, and providing technical assistance to recipients and beneficiaries of ED financial assistance. A large part of each region's compliance program will involve the investigation of complaints of discrimination. Compliance reviews initiated in FY 1986 will include, as appropriate, each of OCR's civil rights jurisdictions in the geographic area served by each regional office. Monitoring activities will focus on ensuring that recipients comply with voluntary compliance plans and fulfill their vocational education Methods of Administration responsibilites. OCR will design technical assistance activities to respond to recipient and beneficiary needs.

Paperwork Reduction Act of 1980. The information collection activity to be undertaken pursuant to this plan is the Fall 1986 Elementary and Secondary School Civil Rights Survey. A notice will be published in the Federal Register in the Fall of 1985, prior to submission of the survey to OMB, notifying the public of OCR's intention to gather this data. This survey is scheduled for OMB approval in February 1986 and for distribution to selected local education agencies in the Fall of 1986. In addition to the above survey, OCR also jointly sponsors two surveys with the National Center for Education Statistics, the Fall Enrollment and Compliance Report of Institutions of Higher Education Survey (OMB control number 1850–0035) and the Earned Degrees and Other Formal Awards Conferred Survey (OMB control number 1850–0053).

COMPLIANCE REVIEW STARTS BY ISSUE

(Oct. 1, 1984–Mar. 31, 1985)

	Review starts
Elementary and Secondary Education Issues:	
Within-School Discrimination	25
Vocational Education	6
Special Purpose Schools	1
Free Appropriate Public Education	12
Employment	2
Segregated Schools	0
Within District Comparability	0
Joint Issue: Within-School Discrimination and Free Appropriate Public Education	2
Other Elementary and Secondary Reviews	1
Postsecondary Issues:	
Program Accessibility	11
Admissions	8
Intercollegiate Athletics	1
Vocational Education	6
Student Services	12
Vocational Rehabilitation Services	0
Employment	0
Other Postsecondary Reviews	1
Total	88

VI. Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed plan. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered in the development of the final plan.

All comments submitted in response to the proposed plan will be available for public inspection, during and after the comment period, at the Department of Education, Room 5074, Switzer Building, 330 C Street SW, Washington, D.C. between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance does not apply)

Dated: July 17, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-17339 Filed 7-19-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Publication of Sample Cases and Expected Parental Contributions for the National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of publication of sample cases and expected parental contributions for the approval of need analysis systems and notice of closing date for transmittal of information.

SUMMARY: The Secretary gives notice that the sample cases and expected parental contribution provided in the tables contained in this notice will be used in approving systems of need analysis for award year 1986–87 for the National Direct Student Loan (NDSL), College Work-Study (CWS) and Supplemental Educational Opportunity Grant (SEOG) programs. These programs are known collectively as the campus-based programs. The Secretary takes this action under the authority of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) as amended and 34 CFR 674.13, 675.13, and 676.13 of the NDSL, CWS, and SEOG program regulations, respectively.

Institutions of higher education must use these approved systems of need analysis in determining the financial need of dependent and independent students under the respective campus-based programs.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Anna S. Borlaug, telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION:

Program Information

This notice provides the sample cases and the expected parental contributions that the Secretary will use to approve need analysis systems for award year 1986–87 under the campus-based programs (20 U.S.C. 1089—Note). In order to be approved, a system must meet the requirements provided in this notice.

If the majority of students served by a system are undergraduate students, an individual or organization must submit to the Secretary expected parental contributions for dependent undergraduate students which increase incrementally as the parents' financial strength (measured in constant dollars) increases, are equal for families of equal financial strength, and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary in Table 1.

If the majority of students served by a system are graduate and professional students, an individual or organization must submit to the Secretary expected parental contributions for dependent graduate and professional students which increase incrementally as the parents' financial strength (measured in constant dollars) increases, are equal for families of equal financial strength, and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary in Table 2. An individual or organization that wishes to have its system of need analysis approved for dependent students must also submit its system of need analysis for independent students.

If the Secretary approves an individual's or organization's system for dependent undergraduate students, the Secretary will also approve that individual's or organization's system for dependent graduate and professional students, and independent undergraduate, and graduate and professional students. If the Secretary approves an individual's or organization's system for dependent graduate and professional students, the Secretary will also approve that individual's or organization's system for dependent undergraduate students, and independent undergraduate, and graduate and professional students.

The expected parental contributions in this notice are based on the following assumptions: a 4.5 percent inflation rate for 1985; families of varying sizes with two parents and either one dependent unergraduate student (Table 1), or one dependent graduate or professional student (Table 2); the adjusted gross income of that student's older parent who is the family's sole wage earner and is 45; an asset protection allowance of $31,000; an 8-percent allowance for State and other taxes; and the use of 1985 U.S. income tax schedules for a joint return with standard deductions. The expected parental contributions in this notice do not take into account—

Business or farm assets;

Nontaxable income;

Other unusual expenses; and

Elementary and secondary tuition expenses.

The Secretary will use the sample cases and expected parental contributions contained in this notice to approve need analysis systems for dependent undergraduate, and graduate and professional students under the campus-based programs. The approved systems will be used for making awards to students under the campus-based programs for award year 1986–87.

Closing Date for Transmittal of Information

An individual or organization wishing to have a system of need analysis approved must submit to the Secretary on or before August 21, 1985: (1) A complete description of its system of need analysis for dependent and independent students; (2) its student application form(s) for undergraduate, and graduate and professional students; (3) either the expected parental contributions for undergraduate students produced by an individual's or organization's system using the sample cases provided in Table 1 which are

based on dependent undergraduate students, or the expected parental contributions for graduate and professional students produced by an individual's or organization's system using the sample cases provided in Table 2 which are based on dependent graduate and professional students; and (4) a complete calculation of how each expected parental contribution was derived, including enough information to allow the Secretary to duplicate these calculations and results.

The Secretary will not accept this information in the form of computer programs, software, or mechanical devices. The Secretary will not accept this information after the closing date and will return information received after the closing date to the sender.

Documents Delivered by Mail

Descriptions of systems, application form(s), expected parental contributions, and calculations that are sent by mail must be postmarked on or before August 21, 1985 and addressed to Anna Borlaug, Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW, [ROB–3, Room 4018], Washington, DC, 20202.

An individual or organization must show proof of mailing these documents. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If these documents are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An individual or organization should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an individual or organization should check with its local post office. An individual or organization is encouraged to use certified or at least first-class mail.

Documents Delivered by Hand

Descriptions of systems, application form(s), expected parental contributions and calculations that are hand-delivered must be taken on or before (insert date 30 days from the date of publication) to Anna Borlaug, Department of Education, Office of Student Financial Assistance, 7th and D Streets, SW [ROB–3, Room 4018], Washington, DC, 20202. The Campus and State Grant Branch will accept these hand-delivered documents between 8:00 a.m. and 4:30 p.m. daily (Washington, DC time) except Saturdays, Sundays and Federal holidays.

These documents will not be accepted after 4:30 p.m. August 21, 1985.

TABLE 1.—(UNDERGRADUATE) SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS, AND SEOG PROGRAMS—AWARD YEAR 1986–87

Net assets—	$30,000				$40,000				$50,000				$60,000			
Family size—	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
Adjusted gross income:																
$12,000	0	0	0	0	90	0	0	0	360	0	0	0	620	130	0	0
16,000	470	0	0	0	710	220	0	0	980	490	20	0	1,240	750	290	0
20,000	1,080	590	130	0	1,320	830	370	0	1,580	1,100	640	120	1,880	1,360	900	390
24,000	1,680	1,190	730	220	1,950	1,430	970	460	2,280	1,700	1,230	720	2,640	2,000	1,500	990
28,000	2,360	1,780	1,310	800	2,680	2,040	1,540	1,040	3,090	2,390	1,840	1,310	3,550	2,760	2,150	1,570
32,000	3,150	2,450	1,890	1,360	3,560	2,780	2,170	1,590	4,060	3,190	2,520	1,890	4,620	3,670	2,920	2,210

TABLE 2.—(GRADUATE AND PROFESSIONAL) SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS, AND SEOG PROGRAMS—AWARD YEAR 1986–87

Net assets—	$30,000				$40,000				$50,000				$60,000			
Family size—	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
Adjusted gross income:																
$12,000	0	0	0	0	40	0	0	0	160	0	0	0	280	60	0	0
16,000	210	0	0	0	320	100	0	0	440	220	10	0	560	340	130	0
20,000	490	270	60	0	600	380	170	0	720	500	290	60	880	620	410	180
24,000	770	540	330	100	920	650	440	210	1,130	780	560	330	1,370	950	680	450
28,000	1,180	830	590	360	1,400	970	700	470	1,700	1,200	860	590	2,080	1,460	1,040	710
32,000	1,740	1,240	890	620	2,090	1,470	1,060	720	2,540	1,770	1,290	890	3,100	2,180	1,570	1,090

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: July 17, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–17337 Filed 7–19–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 Noncompeting Continuation Awards.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of noncompeting continuation grant applications for certain programs administered by the Department of Education under the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes the list of all closing dates for noncompeting continuation awards covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA number), 400 Maryland Avenue, SW., Washington, D.C. 20202.

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

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

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

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

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

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

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Available funds: An estimate of available funds is included in each application notice, under the paragraph on availability of funds. These estimates of funding levels do not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

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

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

The Executive Order—

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

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

Included in each application announcement in this notice is a current list of States that have established a process, designated a single point of contact, and have selected that program for review. Also included in each announcement is the date by which comments and recommendations from the single point of contact review are due to the Department.

The Executive Order for Intergovernmental Review will apply to the following programs:

84.158—Secondary Education and Transitional Services for Handicapped Youth

84.024—Handicapped Children's Early Education Program

84.025—Services for Deaf-Blind Children and Youth

84.078—Postsecondary Education Programs for Handicapped Persons

Part I—List of Program Application Announcements Published in This Notice

CFDA No.	Program	Closing date
SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH		
84.158F	Secondary Education and Transitional Services for Handicapped Youth—Transition Strategies and Techniques.	Sept. 30, 1985.
84.158H	Secondary Education and Transitional Serivces for Handicapped Youth—Research Projects in Secondary Education.	Oct. 15, 1985.
HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM		
84.024B-B	Handicapped Children's Early Education Program—Demonstration Projects.	Do.
RESEARCH IN EDUCATION OF THE HANDICAPPED		
84.023L	Research in Education of the Handicapped—Handicapped Children's Model Program/Youth Employment Projects.	Oct. 25, 1985.
84.023N	Research in Education of the Handicapped—Handicapped Children's Model Program/Postsecondary Projects.	Do.
SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH		
84.158B	Secondary Education and Transitional Services for Handicapped Youth—Service Demonstration Models.	Oct. 25, 1985.
HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM		
84.024B-A	Handicapped Children's Early Education Program—Demonstration Projects.	Dec. 27, 1985.
SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH		
84.158D	Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services.	Jan. 15, 1985.
SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH		
84.025B	Services for Deaf-Blind Children and Youth.	Jan. 27, 1986.
RESEARCH IN EDUCATION OF THE HANDICAPPED		
84.023D	Research in Education of the Handicapped—Field-Initiated Research.	Feb. 3, 1986.
AUXILIARY ACTIVITIES—INNOVATIVE PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN		
84.086X-A	Independent Living Skills Training for Severely Handicapped Youth.	Mar. 3, 1986.
84.086X-B	Parent Involvement in Provision of Educational Services and Life-Long Planning for Severely Handicapped Children and Youth.	Do.
84.086X-C	Non-Directed Demonstration Projects for Severely Handicapped Children and Youth.	Do.

CFDA No.	Program	Closing date
84.086X-J	Statewide Systems Change	Do.
84.086X-L	Social and Community Skills Development for Severely Handicapped Children and Youth.	Do.
84.086X-N	Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment.	Do.
84.086Y-D	Approaches to Total Life Planning for Deaf-Blind Children and Youth.	Do.
84.086Y-E	Skills Training, Placement and Supported Employment for Deaf-Blind Youth.	Do.
84.086Y-H	Non-Directed Demonstration Projects for Deaf-Blind Children and Youth.	Do.
84.086Y-K	Communication Skills Development for School-Aged Deaf-Blind Children and Youth.	Do.
POSTSECONDARY EDUCATION PROGRAMS FOR HANDICAPPED PERSONS		
84.078D	Postsecondary Education Programs for Handicapped Persons—Demonstration Projects.	Mar. 14, 1986.
HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM		
84.024F	Handicapped Children's Early Education Program—Early Childhood State Plan.	Apr. 30, 1986.
RESEARCH IN EDUCATION OF THE HANDICAPPED		
84.023Q	Research in Education of the Handicapped—Enhancing Instructional Program Options Projects.	May 1, 1986.
84.023J	Research in Education of the Handicapped—Technology Effectiveness Research Projects.	May 19, 1986.
84.023E	Research in Education of the Handicapped—Field-Initiated Research Projects.	June 3, 1986.
84.023S	Research in Education of the Handicapped—Special Population/Handicapped Projects.	Do.

Part II—Application Notice

Secondary Education and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, and other appropriate public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

84.158F—Secondary Education and Transitional Services for Handicapped Youth—Transition Strategies and Techniques

Closing date: September 30, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for research projects designed to develop strategies and techniques for transition to cooperative or supported employment through improvements in independent living skills, secondary and postsecondary education, vocational preparation, and availability of work opportunity.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary Education and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158F), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $500,000 will be available for support of the third budget period for 6 fiscal year 1984 Transition Strategies and Techniques projects.

Application forms: Application forms and program information packages will be mailed on July 30, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Nancy Safer, Research Project Branch, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1109.

(20 U.S.C. 1425)

84.158H—Secondary Education and Transitional Services for Handicapped Youth—Research Projects in Secondary Education

Closing date: October 15, 1985.

Program information: This priority supports the continued second budget period funding for grants originally awarded in 1985 to support research projects which focus on secondary level programs for handicapped youth as described under 34 CFR Part 326.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158H), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that $1,500,000 will be available for support of the second budget period for 18 Research Projects in Secondary Education projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on July 30, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applications not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78 and 79).

For further information contact: Mr. Melville Appell, Research Projects Branch, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1113.

(20 U.S.C. 1425)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024B-B—Handicapped Children's Early Education Progam—Demonstration Projects

Closing date: October 15, 1985.

Program information: The purpose of this program is to support experiemental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Demonstration projects assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication. This priority supports the continued third budget period funding for grants initially awarded in 1985 for demonstration projects.

Intergovernment Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

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

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

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

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024B-B), 400

Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $3,700,000 will be available for support of the third budget period for the 32 demonstration projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be mailed on September 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submittted in accordance with the regulations, instructions, and forms included in the program information package. However, the progam information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contract: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development special education programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511-M/S 2313) Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1423)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State or local educational agencies, institutions of higher education and other public or nonprofit private educational or research agencies and organizations. In addition, the Secretary may award contracts to profit making organizations.

The purpose of this program is to fund research and related purposes and to conduct research, surveys, or demonstrations relating to the education of handicapped children. This may include model programs designed to meet the special educational needs of those children. It may also include research and related purposes, and research surveys, or demonstrations relating to physical education and recreation for handicapped children.

84.023L—Research in Education of the Handicapped—Handicapped Children's Model Program Youth Employment Projects

Closing date: October 25, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for projects on the role of the school in increasing the employment of handicapped individuals, and on any option open to the handicapped providing for the transition from school to work.

48.023N—Research in the Education of the Handicapped—Handicapped Children's Model Program Postsecondary Projects

Closing date: October 25, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for projects related to postsecondary and continuing education for the handicapped.

Available funds: It is estimated that approximately $1,400,000 will be available for support of the third budget period for 12 Youth Employment projects initially funded in fiscal year 1984. It is estimated that approximately $1,500,000 will be available for support of the third budget period for 15 Postsecondary projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be limited on August 30, 1985 to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1441, 1442)

Secondary Education and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in section 626 of Part C of the Education of the Handicapped Act.
(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, local educational agencies and other public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary

environments such as competitive or supported employment.

84.158B—Secondary Education and Transitional Services for Handicapped Youth—Service Demonstrations Models

Closing date: October 25, 1985.

Program information: This priority suports the continued third budget period funding for grants initially awarded in 1984 for projects that develop and establish exemplary models for services and programs, including specific vocational training and job placement, that result directly in paid employment in regular work settings for handicapped youth leaving school or that enhance the effectiveness of secondary and postsecondary services which lead to employment.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be inlcuded under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education Room 4181 (84.158B), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $1,655,000 will be available for support of the third budget period for 16 Service Demonstration Model projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be mailed on September 10, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirments beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78 and 79).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1154.

(20 U.S.C. 1425)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024B–A—Handicapped Children's Early Education Program—Demonstration Projects

Closing date: December 27, 1985.

Program information: The purpose of this program is to support experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Demonstration projects assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication. This priority supports the continued second budget period fundng for grants initially awarded in 1985 for demonstration projects.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

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

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

Immediately upon receipt of this notice, applicants which are governmental entities, including local

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

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024B–A), 400 Maryland Avenue, SW., Washington, D.c. 20202. (Proof of mailing will be determines on the same basis as applications.)

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

Available funds: It is estimated that approximately $2,300,000 will be available for support of the second budget period for the 20 demonstration projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on September 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511–M/S 2313) Washington, D.C. 20202. Telephone: (202) 732–1084.

(20 U.S.C. 1423)

Secondary Education and Transitional Service for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in Section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, and other appropriate public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to a postsecondary environment such as competitive or supported employment.

84.158D—Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services

Closing date: January 15, 1986

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 for projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary Education and Transitional Services for Handicapped Youth Program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158D), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $1,480,000 will be available for support of the second budget period for 15 Cooperative Models for Planning and Developing Transitional Services projects initially awarded fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on September 10, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1425)

Services for Deaf-Blind Children and Youth

Applications are invited for projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in section 622 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1422)

Awards are made under this program to public or nonprofit private agencies, institutions, or organizations.

This program supports projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

84.025B—Services for Deaf-Blind Children and Youth

Closing Date: January 27, 1986.

Program information: This priority supports the continued second or third budget period funding for cooperative agreements initially awarded in 1985 or 1984 for the provision of services to deaf-blind children and youth, and technical assistance to State educational agencies, in accordance with 34 CFR 307.11.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

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

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

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

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

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.025B), 400 Maryland Avenue SW., Washington D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $2,763,000 will be available for support of the third budget period for the 13 cooperative agreements initially funded in fiscal year 1984 and approximately $1,574,000 for support of the second budget period of the 18 cooperative agreements initially awarded in fiscal year 1985 for services to deaf-blind children and youth under the Services for Deaf-Blind Children and Youth program. A total of $4,935,000 is expected to be made available for awards for multi and single State projects for fiscal year 1986. Of this amount, $4,337,000 is anticipated to be awarded under this competition for new awards. It is expected that funds available for continuation awards will be increased to the extent that funds are not awarded under the new competition.

Application forms: Application forms and program information packages will be mailed on December 2, 1985, to grantees who are eligible to apply for noncompeting continuation cooperative agreement support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR Part 307) published at 49 FR 28360 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Charles W. Freeman, Special Needs Section, Division of Innovation and Development, Special Education Programs, Department of Education, 400

Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1177.

(20 U.S.C. 1422)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and research-related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023D—Research in Education of the Handicapped—Field-Initiated Research

Closing date: February 3, 1986.

Program information: This priority supports second or third budget period funding for Field-Initiated Research projects that were first funded in fiscal years 1985 or 1984 under the Research in Education of the Handicapped program. The purpose of these projects is to provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped children and youth.

Available funds: It is estimated that approximately $5,240,000 will be available for support of the second of third budget periods for 65 Field-Initiated Research projects initially funded in fiscal years 1985 or 1984.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **Federal Register** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. James Johnson, Technology and Marketing Branch, Division of Educational Services Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511 M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1123.

(20 U.S.C. 1441, 1442)

Auxiliary Activities—Innovative Programs for Severely Handicapped Children

Applications are invited for projects under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program.

Authority for this program is contained in Section 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424)

Awards are made under this program to public or private, profit or nonprofit organizations and institutions.

The Auxiliary Activities program supports research, development or demonstration, training, and dissemination activities which, consistent with the purpose of Part C of the Education of the Handicapped Act, meet the unique educational needs of handicapped children and youth, including those who are severely handicapped.

84.086X-A—Independent Living Skills Training for Severely Handicapped Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for the development of innovative, cost effective methods for providing training in independent living skills to severely handicapped youth, ages 16 through 21, making the transition from educational to home/community environments.

84.086X-B—Parent Involvement in Provision of Educational Services and Life-Long Planning for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for increasing the involvement of parents in the development, establishment, and evaluation of individualized educational programs for severely handicapped children and youth, and in the life-long planning for these persons.

84.086X-C—Non-Directed Demonstration Projects for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding for grants initially awarded in 1985 or 1984 for demonstrating specific, viable procedures for meeting significant educational needs of severely

handicapped (other than deaf-blind) children and youth.

84.086X–J—Statewide Systems Change

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding for grants initially awarded in 1985 or 1984 to design, implement, evaluate, and disseminate information about a model for the Statewide delivery of comprehensive special education and related services to severely handicapped children and youth (including deaf-blind children and youth), ages birth through 21, within a particular State.

84.086X–L—Social and Community Skills Development for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 to design, implement, and evaluate innovative procedures which increase the skills and opportunities of severely handicapped (including deaf-blind) children and youth to socially interact with peers and others in neighborhood and other community situations.

84.086X–N—Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 to design, implement, and evaluate innovative approaches for the education of severely handicapped (including deaf-blind) children and youth in the least restrictive and least segregated environments.

84.086Y–D—Approaches to Total Life Planning for Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 for projects which implement innovative procedures for the development of total life planning for deaf-blind children and youth.

84.086Y–E—Skills Training, Placement, and Supported Employment for Deaf-Blind Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding from grants initially awarded in 1985 for projects which design, implement, and disseminate innovative practices in the prevocational and vocational skills training, work site placement, and supported employment of deaf-blind youth.

84.086Y–H—Non-Directed Demonstration Projects for Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 or 1984 for projects designed to demonstrate specific, viable procedures for meeting significant educational needs of deaf-blind children and youth. These demonstration projects focus upon the overall mission of the program to demonstrate innovative and effective approaches to the education of deaf-blind children and youth in the least restrictive environment with the goal of providing educational programs for these children and youth in regular school settings.

84.086–K—Communication Skills Development for School-Aged Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 for projects which identify critical educational problems in developing communication skills in school-aged deaf-blind children, ages 6 through 21, design and demonstrate innovative programs to effectively resolve such problems, and disseminate information about project findings and recommendations.

Available funds: It is estimated that approximately $1,635,000 will be available for support of the third year of the 13 grants initially awarded in fiscal year 1984 and $7,980,000 for support of the second year of the 76 grants initially awarded in fiscal year 1985 grants.

Application forms: Application forms and program information packages will be mailed on January 16, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Auxiliary Activities—Innovative Programs for Severely Handicapped Children (34 CFR Part 315) published at 49 FR 28020 on July 9, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: R. Paul Thompson, Special Needs Section, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1177.

(20 U.S.C. 1424)

Postsecondary Education Programs for Handicapped Persons

Applications are invited for projects governing demonstration projects under the Postsecondary Education Programs for Handicapped Persons program.

Authority for this program is contained in Section 625 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Awards are made under this program to State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other nonprofit educational agencies.

84.078D—Postsecondary Education Programs for Handicapped Persons—Demonstration Projects

Closing date: March 14, 1986.

Program information: The purpose of this program is to provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for Handicapped individuals. This priority supports continued second or third budget period funding for grants awarded in fiscal years 1985 or 1984 for demonstration projects.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and

have selected this program for review:

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

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

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

All comments from State single point of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.078D), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $2,500,000 will be available for support of the second or third budget periods for 21 demonstration projects initially awarded in fiscal years 1985 or 1984.

Application forms: Application forms and program information packages will be mailed on January 10, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons program (34 CFR Part 338) published at 49 FR 25990 on June 25, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Joseph Rosenstein, Postsecondary Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1176.

(20 U.S.C. 1424a)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024F—Handicapped Children's Early Education Program—Early Childhood State Plan

Closing date: April 30, 1986.

Program information: This priority supports the second budget period for grants initially awarded in 1985. Grantees may be in one of three program stages: planning, development, or implementation. Grants are for the purpose of establishing, over a maximum period of eight years, a comprehensive State-wide system for deliverying special education and related services to all handicapped children from birth through five years of age.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

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

Alabama
Arizona
Arkansas
California
Connecticut
Delaware
District of Columbia
Florida
Guam
Georgia
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Massachusetts
Michigan
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
Northern Mariana Islands
North Dakota
Ohio
Olkahoma
Oregon
Pennsylvania
Puerto Rico
South Carolina
South Dakota
Tennessee
Texas
Trust Territory
Utah
Vermont
Vigin Islands
Virginia
Washington
West Virginia
Wisconsin

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

In States that have not established a process or chosen this program for

review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024F), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

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

Available funds: It is estimated that approximately $3,000,000 will be available for support of the second budget period for the 29 Early Childhood State Plan grants initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on January 20, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretay strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretay further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511-M/S 2313) Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1423)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and research-related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children, and youth, including physical education and recreation.

84.023Q—Research in Education of the Handicapped—Enhancing Instructional Program Options Projects

Closing date: May 1, 1986.

Program information: This priority supports second budget period funding for Enhancing Instructional Program Options projects under the Research in Education of the Handicapped program. The purpose of this priority is to provide support for projects to enhance the capacity of local educational agencies to provide a variety of instructional options and screening procedures prior to evaluation and placement of children with learning problems in special education.

Available funds: It is estimated that approximately $1,200,000 will be available for support of the second budget period for 11 Enhancing Instructional Program Options projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the progam information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **Federal Register** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Gary Lambour, Research Projects Branch, Division of Educational Services, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1054.

(20 U.S.C. 1441, 1442)

84.023J—Research in Education of the Handicapped—Technology Effectiveness Research Projects

Closing date: May 19, 1986.

Program information: This priority supports fourth budget period funding for Technology Effectiveness Research projects under the Research in Education of the Handicapped program. The purpose of this program is to support projects on the use of technological devices and systems in schools and by handicapped students.

Available funds: It is estimated that approximately $1,082,000 will be available for support of the fourth year budget period for 4 Technology Effectiveness Research projects initially funded in fiscal year 1983.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **Federal Register** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Nancy Safer, Research Projects Branch, Division of Educational Services, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1109.

(20 U.S.C. 1441, 1442)

84.023E—Research in Education of the Handicapped—Field-Initiated Research Projects

Closing date: June 3, 1986.

Program information: This priority supports the third budget period funding for Field-Initiated Research projects under the Research in Education of the Handicapped program. These five year projects were initially funded in fiscal year 1984. The purpose of these projects is to provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped children and youth.

84.023S—Research in Education of the Handicapped—Special Population/Handicapped Projects

Closing date: June 3, 1986.

Program information: This priority supports second budget period funding for Special Population/Handicapped projects under the Research in Education of the Handicapped program. These projects are designed to deal with the unique educational problems resulting from a combination of membership in a particular special population and having (a) handicapping condition(s), and, in particular, to identify and analyze intervention strategies for serving secondary-aged handicapped students who are also youthful offenders, children of migrant families, school dropouts, or substance abusers.

Available funds: It is estimated that approximately $800,000 will be available for support of the third budget period for 16 Field-Initiated Research projects initially awarded in fiscal year 1984, and it is estimated that approximately $650,000 will be available for support of the second budget period for 10 Special Population/Handicapped projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **Federal Register** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Nancy Safer, Research Project Branch, Special Education Programs, Division of Educational Services, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1109.

(20 U.S.C. 1441, 1442)

Dated: July 15, 1985.

Joan Standlee,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 85-17340 Filed 7-19-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Portsmouth Area Site, Ohio; Trespassing on DOE Property

The Department of Energy (DOE), successor agency to the Atomic Energy Commission, is authorized pursuant to section 229 of the Atomic Energy Act of 1954, as amended; section 104 of the Energy Reorganization Act of 1974 as implemented by 10 CFR Part 860; and section 301 of the Department of Energy Organization Act, to prohibit unauthorized entry and the unauthorized introduction of weapons or

dangerous materials into and upon its nuclear sites. By Notice dated October 19, 1965, appearing at page 13288 of the **Federal Register** (FR Doc. 65–11108), the Atomic Energy Commission prohibited unauthorized entry into and upon several installations and facilities of the Portsmouth Area Office of the Atomic Energy Commission, located in Pike County, Ohio, including the Portsmouth Gaseous Diffusion Plant, the Portsmouth Area Water Treatment Plant, the Portsmouth Area Raw Water Pumphouse, and the Portsmouth Area Booster Pumphouse. This Notice amends the site description of all these installations and facilities to reflect perimeter and other changes. The most significant amendment is to the description for the Portsmouth Gaseous Diffusion Plant which has been revised to reflect a perimeter and name common to both it and the recently constructed Portsmouth Gas Centrifuge Plant. Notices stating the pertinent prohibition of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said tracts and at intervals along its perimeters as provided in 10 CFR 860.6.

The site description of the Portsmouth Gaseous Diffusion Plant is hereby amended to read as follows:

The Department of Energy (DOE) installation known as the Portsmouth Uranium Enrichment Plant, said installation being a tract of land located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately four miles southeast of the village of Piketon, Ohio, covering approximately 900 acres, and more particularly described as follows:

Beginning at a point in the DOE-owned chain link fence on the south side of the intersection of Perimeter Road and the Piketon Hill Road, also known as North Access Road, said point being the point of intersection of the centerline of Piketon Hill Road extended and said DOE-owned chain link fence;

Thence in an easterly and southerly direction paralleling Perimeter Road a distance of 0.70 mile along and to the point of intersection of said fence with the centerline of Dutch Run Road extended, also known as East Access Road;

Thence in a southerly and westerly direction paralleling Perimeter Road a distance of 0.13 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a westerly direction paralleling 16th Street a distance of 0.05 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a southerly and westerly direction along and to the south of 16th Street a distance of 0.04 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a westerly direction paralleling 16th Street a distance of 0.11 mile along and to a corner in said fence on the southerly side of 16th Street and X–105 Building;

Thence in a southerly and westerly direction along and to the south of 16th Street and said building a distance of 0.01 mile along and to a corner in said fence on the easterly side of Patrol Road paralleling X–744L Warehouse;

Thence in a southerly direction paralleling Patrol Road and the easterly side of said warehouse a distance of 0.08 mile along and to a corner in said fence on the southerly side of the Patrol Road extension of 12th Street;

Thence in a westerly direction paralleling the Patrol Road extension of 12th Street and crossing Jackson Avenue a distance of 0.06 mile along and to a corner in said fence on the southerly side of 12th Street and westerly side of Jackson Avenue;

Thence in a southerly and westerly direction along and to the south of 12th Street a distance of 0.02 mile along and to a corner in said fence on the southerly side of 12th Street and westerly side of Jefferson Avenue;

Thence in a southerly direction paralleling Jefferson Avenue a distance of 0.32 mile along and to a corner in said fence on the southerly side of 7th Street;

Thence in a westerly direction paralleling 7th Street a distance of 0.01 mile along and to a corner in said fence on the easterly side of Patrol Road "B";

Thence in a southerly direction paralleling said Patrol Road a distance of 0.02 mile along and to a corner in said fence on the easterly side of said Patrol Road;

Thence in a southerly and easterly direction along and to the east of said Patrol Road a distance of 0.02 mile along and to a corner in said fence on the easterly side of said Patrol Road;

Thence in a southerly direction paralleling said Patrol Road a distance of 0.18 mile along and to a corner in said fence at the southeast corner of said Patrol Road;

Thence in a westerly direction paralleling said Patrol Road a distance of 0.17 mile along and to a point in existing chain link fence a distance of 0.02 mile from the easterly side of X–744K Warehouse;

Thence leaving the existing chain link fence in a southerly direction and paralleling the easterly side of said warehouse a distance of 0.08 mile to a point, said point being 0.02 mile from the easterly side and 0.01 mile from the southerly side of said warehouse;

Thence in a westerly direction paralleling the southerly side of said warehouse and X–751 Building a distance of 0.13 mile to a point, said point being 0.03 mile from the southerly side and 0.01 mile from the westerly side of said building;

Thence in a northerly direction paralleling the westerly side of said building a distance of 0.06 mile to a point, said point being 0.01 mile from the northerly side and 0.01 mile from the westerly side of the said building;

Thence in a northerly and westerly direction a distance of 0.04 mile to a point in existing DOE owned chain link fence on the southerly side of 2nd Street;

Thence in a westerly direction paralleling 2nd Street a distance of 0.02 mile along and to a corner in said fence;

Thence in a southerly direction paralleling Eagle Avenue a distance of 0.09 mile along and to a corner in said fence on the northerly side of Dove Avenue;

Thence in an easterly direction paralleling Dove Avenue a distance of 0.01 mile along and to a corner in said fence on the easterly side of Dove Avenue;

Thence in a southerly direction paralleling Dove Avenue a distance of 0.04 mile along and to a corner in said fence on the southerly side of Dove Avenue;

Thence in a westerly direction paralleling Dove Avenue a distance of 0.01 mile along and to a corner in said fence on the easterly side of Dove Avenue;

Thence in a southerly direction paralleling Dove Avenue a distance of 0.15 mile along and to a corner in said fence on the northerly side of Hewes Street;

Thence in an easterly direction paralleling Hewes Street a distance of 0.05 mile along and to a corner in said fence at the northeast corner of Vehicle Portal X–1107AV;

Thence in a southerly direction crossing Hewes Street a distance of 0.01 mile totaling 0.02 mile along and to a corner in said fence at the southeast corner of said vehicle portal;

Thence in a westerly direction paralleling Hewes Street and said vehicle portal a distance of 0.02 mile along and to a corner in said fence at the easterly side of Crane Avenue;

Thence in a southerly direction paralleling Crane Avenue a distance of 0.12 mile along and to a corner of said fence at the southeast corner of XT–847 Warehouse;

Thence in a westerly direction paralleling the southerly side of said warehouse a distance of 0.05 mile along

and to a corner in said fence at the northeast corner of X-749 Storage Yard;

Thence in a southerly direction paralleling said storage yard on the easterly side a distance of 0.11 mile along and to a corner in said fence;

Thence in an easterly direction paralleling said storage yard a distance of 0.02 mile along and to a corner in said fence;

Thence in a southerly direction paralleling said storage yard on the easterly side, a distance of 0.04 mile along and to a corner in said fence;

Thence in a westerly direction paralleling said storage yard on the southerly side a distance of 0.07 mile along and to a corner in said fence;

Thence in a northerly and westerly direction paralleling the westerly side of X-749 Storage Yard a distance of 0.08 mile along and to a corner in said fence;

Thence in an easterly direction paralleling the northerly side of said storage yard a distance of 0.03 mile along and to a corner in said fence, said corner being a distance of 0.01 mile from the southerly side and 0.03 mile from the westerly side of the XT-847 Warehouse;

Thence in a northerly direction paralleling the westerly side of said warehouse a distance of 0.12 mile along and to a corner in said fence on the southerly side of Hewes Street;

Thence in a westerly direction paralleling Hewes Street a distance of 0.25 mile along and to a corner in said fence on the easterly side of Martin Avenue;

Thence in a southerly direction paralleling Martin Avenue a distance of 0.13 mile along and to a corner in said fence on the southerly end of Martin Avenue and Shrike Loop;

Thence in an easterly direction paralleling Shrike Loop and passing on the south side of the X-1107F Portal a distance of 0.11 mile along and to a corner in said fence on the easterly side of Sunbird Loop;

Thence in a southerly direction paralleling Sunbird Loop a distance of 0.03 mile along and to a corner in said fence on the southerly side of Sunbird Loop;

Thence in a westerly direction paralleling Sunbird Loop a distance of 0.04 mile along and to a corner in said fence on the westerly side of Sunbird Loop;

Thence in a northerly direction paralleling Sunbird Loop, Teal Avenue and Patrol Road a distance of 0.58 mile along and to a corner in said fence at the southwest corner of the X-2207E Parking Lot and northerly side of Patrol Road;

Thence in an easterly direction paralleling Patrol Road and said parking lot a distance of 0.09 mile along and to a corner in said fence on the westerly side of Plover Avenue;

Thence in a northerly direction parelling Plover Avenue a distance of 0.09 mile along and to a corner in said fence on the southerly side of Sherman Loop;

Thence in a westerly direction paralleling Sherman Loop a distance of 0.02 mile along and to a corner in said fence on the westerly side of Sherman Loop.

Thence in a northerly direction parelleling Sherman Loop a distance of 0.06 mile along and to a corner in said fence on the northerly side of the extension of Stockton Street;

Thence in an easterly direction parelleling the extension of Stockton Street and X-1107EV Portal a distance of 0.02 mile along and to a corner in said fence on the north side of the extension of Stockton Street and west side of Plover Avenue;

Thence in a northerly direction paralleling Patrol Road and west side of X-7725A Warehouse a distance of 0.05 mile along and to a corner in said fence at northwest corner of said warehouse;

Thence in an easterly direction paralleling Patrol Road and north side of said warehouse a distance of 0.07 mile along and to a corner in said fence on the northeast corner of said warehouse;

Thence in a southerly direction paralleling Patrol Road and east side of said warehouse a distance of 0.05 mile along and to a corner in said fence on the northerly side of Stockton Street;

Thence in an easterly direction paralleling Stockton Street a distance of 0.10 mile along and to a corner in said fence on the westerly side of Hawk Avenue;

Thence in a northerly direction paralleling Hawk Avenue a distance of 0.05 mile along and to a corner in said fence at the corner of Hawk Avenue and Taylor Street;

Thence in an easterly direction paralleling Taylor Street a distance of 0.09 along and to a corner in said fence on the northwest corner of Taylor Street and Grebe Avenue;

Thence in a northerly direction paralleling Grebe Avenue and X-1107DV Portal a distance of 0.02 mile along and to a corner in said fence at the northwest corner of said Portal.

Thence in an easterly direction paralleling Taylor Street and Gannet Loop and crossing Grebe Avenue a distance of 0.06 mile along and to a corner in said fence at the northeast corner of X-1107DP Portal and Gannet loop;

Thence in a southerly direction paralleling Gannet Loop on the east a distance of 0.02 mile along and to a corner in said fence on the northerly side of Taylor Street;

Thence in an easterly direction paralleling Taylor Street a distance of 0.07 mile along and to a corner in said fence on the westerly side of Scioto Avenue and Patrol Road;

Thence in a northerly direction paralleling Patrol Road and Scioto Avenue a distance of 0.20 mile along and to a corner in said fence on the easterly side of Parking Lot X-206E;

Thence in a northwesterly direction paralleling said parking lot, crossing contruction road, and paralleling Contractor's Parking Lot a distance of 0.10 mile along and to a corner in said fence on the north side of Contractor's Parking Lot;

Thence in a southwesterly direction paralleling Contractor's Parking Lot a distance of 0.08 mile along and to a corner in said fence on the westerly side of "A" Road;

Thence in a northwesterly direction paralleling "A" Road a distance of 0.26 mile along and to a corner in said fence on the westerly side of "B" Road;

Thence in a northerly direction paralleling "B" Road a distance of 0.30 mile along and to a corner in said fence on the southeasterly side of Perimeter Road;

Thence in a northeasterly and easterly direction paralleling Perimeter Road a distance of 0.78 mile along said fence to the point of beginning.

The site description of the X-611 Water Treatment Plant is hereby amended to read as follows:

The Department of Energy (DOE) Facility known as the Portsmouth Area Water Treatment Plant (X-611), located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately 4 miles southeast of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 7.9 acres, and is more particularly described as follows:

Beginning at a corner of a DOE-owned chain link fence located on the easterly side of the Service Road to X-611 at a distance of 0.24 mile from the intersection of said X-611 Road with Perimeter Road;

Thence in a southerly direction a distance of 0.10 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.12 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.04 mile along and to a corner of said fence located on the

northerly side of the Service Road to X-611C Road at a distance of 0.07 mile from the intersection of said X-611C Road with said X-611 Service Road;

Thence in a westerly direction parallel to said X-611C Road a distance of 0.02 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.01 mile along and to a corner of said fence;

Thence ina a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in an easterly direction a distance of 0.01 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.03 mile along and to a corner of said fence;

Thence in a easterly and southerly direction a distance of 0.12 mile along said fence to the point of beginning.

The site description of the X-608 Raw Water Pumphouse is hereby amended to read as follows:

The Department of Energy (DOE) facility known as the Portsmouth Area Raw Water Pumphouse (X-608), located in the township of Seal, Pike County, Ohio, approximately 0.13 mile west of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 1.48 acres, and is more particularly described as follows:

Beginning at the corner of a DOE-owned chain link fence located 0.15 mile north of West Second Street and 0.13 mile west of Northwest Street, Piketon;

Thence in a westerly direction a distance of 0.06 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.05 mile along and to a corner of said fence located on the southerly bank of the Scioto River;

Thence in a southeasterly and easterly direction parallel to said bank a distance of 0.04 mile along said fence to the concrete wall of the pumphouse;

Thence in a northerly direction a distance of 0.01 mile along and to a corner of said wall located in said river;

Thence in a easterly direction of a distance of 0.01 mile along and to a corner of said wall located in said river;

Thence in a southerly direction a distance of 0.01 mile along said wall to said fence located on said bank;

Thence in a easterly direction parallel to said bank a distance of 0.02 mile along and to a corner of said fence;

Thence in a southerly direction a distance of 0.03 mile along said fence to the point of beginning.

The site description of the X-605 Booster Pumphouse is hereby amended to read as follows:

The Department of Energy (DOE) facility known as the Portsmouth Area Booster Pumphouse (X-605), located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately 4 miles southeast of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 0.40 acre and is more particularly described as follows:

Beginning at the corner of a DOE-owned chain link fence located on the westerly side of the Booster Pump Station Road and 0.59 mile north of the intersection of said road with Perimeter Road;

Thence in a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in an easterly direction a distance of 0.03 mile along and to a corner of said fence;

Thence in a southerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.03 mile along of said fence to the point of beginning.

Dated at Washington, DC, this 5th day of July 1985.

John L. Gilbert,

Executive Assistant, Office of the Assistant Secretary for Defense Programs.

[FR Doc. 85-17380 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Weatherization Assistance Program (WAP); Regional Training and Technical Assistance; Availability of Funding

AGENCY: Department of Energy.

ACTION: Notice of availability of funding.

SUMMARY: This document announces the issuance of a Program Solicitation DE-FG-41-85R150000 by the Department of Energy, Boston Support Office (BSO). The Solicitation invites grant application from state WAP grantees located in New England for funding of project(s) in support of the WAP.

ADDRESS: Department of Energy, Boston Support Office, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: Richard C. Michaud, State and Local Conservation Program, (617) 223-5288, Louise S. Urgo, State and Local Conservation-Grants Management (617) 223-3745.

SUPPLEMENTARY INFORMATION:

I. Background
II. Eligible Grantees
III. Eligible Activities

I. Background

The U.S. Department of Energy—Boston Support Office (BSO) is making funds available as part of its Weatherization Assistance Program (WAP) training and technical assistance (T&TA) program.

Two areas for which the BSO is seeking pilot project grant proposals are: (1) Elderly project; and (2) Consumer education.

II. Eligible Grantees

Eligible grantees are the WAP state grantees located in the area serviced by the DOE-BSO (Connecticut, Maine, Vermont, Massachusetts, New Hampshire, and Rhode Island).

III. Eligible Activities

Grants issued pursuant to this Notice are limited to the following projects:

1. Elderly—WAP.
2. Consumer Education—WAP.

Application Procedures

The Program Solicitation and Grant Applications have been provided to each state WAP grantee in the BSO area and must be received no later than August 31, 1985. Application content and evaluation criteria are set forth in the Program Solicitation.

It is anticipated that grant award will be issued by September 30, 1985.

Issued in Chicago, IL, July 12, 1985.

Johnnie D. Greenwood,

Acting Assistant Manager for Acquisition and Assistance.

[FR Doc. 85-17381 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Issuance of Proposed Remedial Order to Tonkawa Refining Co. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Tonkawa Refining Company and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to

Tonkawa Refining Company. This Proposed Remedial Order alleges entitlements violations in the amount of $18,634,038 plus interest in connection with the failure to satisfy entitlements purchase obligations during the period January 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from the Freedom of Information Public Reading Room (MA–232.1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6020.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F–055, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193. Failure to file a Notice of Objection shall be deemed to be an admission of the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 25th day of June 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85–17314 Filed 7–19–85; 8:45 am]

BILLING CODE 6450–01–M

Bi-Petro, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed Consent Order and Opportunity for Comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Bi-Petro, Inc., concerning crude oil resales by the firm, and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATED: Comments by: August 21, 1985.

ADDRESS: Send comments to: Bi-Petro Consent Order Comments, Office of Special Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Edward P. Levy, Office of Special Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Room: 5B–151, 202/252–4945. (Copies of the Consent Order may be obtained free of charge by writing or call this office.)

SUPPLEMENTARY INFORMATION: On July 9, 1985, the ERA executed a proposed Consent Order with Bi-Petro, Inc. of Illinois for $1,250,000. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. Background

Bi-Petro, Inc. (Bi-Petro) is a crude oil reseller. Until January 14, 1974, the activities of Bi-Petro were covered by the provisions of 6 CFR Part 150; from then until December 31, 1977, Subpart F of 10 CFR Part 212 of the federal petroleum price regulations applied; and thereafter Subpart L of Part 212 applied. ERA audited the firm's crude oil resales for the period November 1973 through August 1980 to determine Bi-Petro's compliance with these regulations. The audit concluded that Bi-Petro had received illegal revenues in its sales of crude oil, and ERA alleged in a Proposed Remedial Order (PRO) issued on May 2, 1983 (Case Number 6C0X00251), that Bi-Petro overcharged certain of its customers of crude oil in the total amount of $7,968,308.17 during the audit period.

After Bi-Petro filed its Statement of Objections to the PRO, ERA analyzed the firm's arguments and the underlying basis for the PRO. ERA concluded from its analysis that the PRO raised a range of complex issues concerning Bi-Petro's compliance with the regulations, including the following: (1) Whether ERA correctly determined Bi-Petro's base period selling price; (2) whether Bi-Petro sold to more than one class of purchaser in the Subpart F Period; (3) whether ERA determined Bi-Petro's correct cost of crude oil in inventory during the Subpart F period; (4) whether ERA properly treated Bi-Petro's sales of crude oil to Bi-Petro Refining Company; and (5) whether ERA correctly calculated Bi-Petro's Permissible Average Markup for the Subpart L Period. ERA also determined that its resolution of these issues would require the agency to address numerous interpretative matters, and could necessitate a re-audit involving analysis of a voluminous amount of data. Due to the uncertainty involved, ERA withdrew to PRO. Subsequent audit work confirmed that serious issues of regulatory interpretation existed, and that substantial additional work would be required to resolve them.

Nevertheless, ERA believes that significant violations may have occurred during the entire period of price controls. In light of this fact, as well as the unsettled issues described above, and the expense to the government associated with performing additional analysis and audit work and conducting any ensuing litigation, it is the opinion of the ERA that a payment of $1,250,000 is a satisfactory compromise of the issues raised in this audit. This amount includes interest.

II. The Consent Order

The proposed Consent Order has been entered into to resolve all civil and administrative disputes, claims, and causes of action by DOE relating to Bi-Petro's compliance in its resales of crude oil during the period of price controls. Although Bi-Petro contends that in all respects it correctly construed and applied the applicable regulations, Bi-Petro has entered into this proposed Consent Order to avoid the expense of litigation and the disruption of business. DOE believes the Consent Order is in the public interest and provides a satisfactory resolution of the issues raised by its audit.

III. Refunds

Under the Consent Order, Bi-Petro will pay the sum of $1,250,000 to DOE as follows: (1) $350,000 on or before ten days after the effective date of the Consent Order; (2) $450,000 with interest within twelve months from the effective date of the Consent Order; and, (3) $450,000 with interest within twenty-four months from the effective date of the Consent Order. The DOE shall direct that these monies be deposited in the "Deposit Fund Escrow Account" maintained by the U.S. Treasury. In consideration for Bi-Petro's performance under the Consent Order, the DOE agrees not to pursue any civil claims against Bi-Petro that the DOE may have arising out of the matters covered by the Consent Order.

The foregoing provisions for payment of the refund amount were established because ERA was unable to readily identify the ultimate injured parties due to the nature of the alleged violations and the complexities of petroleum marketing. The refund will be disbursed

pursuant to the procedures of 10 CFR Part 205, Subpart V.

V. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Bi-Petro, Inc. Consent Order." The ERA will consider all comments it receives by 4:30 p.m. CST, thirty (30) days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 9th day of July, 1985.

Milton C. Lorenz,

Special Counsel, U.S. Department of Energy.

[FR Doc. 85-17379 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to Oklahoma Refining Co. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Oklahoma Refining Company and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Oklahoma Refining Company. This Proposed Remedial Order alleges entitlement violations in the amount of $12,360,914 plus interest in connection with the failure to satisfy entitlements purchase obligations during the time period February 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from the Freedom of Information Public Reading Room, MA-232.1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6020.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193. Failure to file a Notice of Objection shall be deemed an admission of the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 25th day of June 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85-17377 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-006; OFP Case No. 65038-9268-20-24]

Order Granting to OLS Energy—University of California, Berkeley, Exemption From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to OLS Energy—University of California, Berkeley, Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration 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"), to OLS Energy—University of California, Berkeley. The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 23.5 net megawatts combined cycle cogeneration facility designed to produce electricity and process steam at the University of California—Berkeley, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on September 20, 1985.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Telephone (202) 252-4708.

Steven E. Ferguson, Esq., Office of the General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On March 18, 1985, OLS Energy—University of California, Berkeley, petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 23.5 MW (net) combined cycle cogeneration facility consisting of a gas turbine generator, a supplementary-fired heat recovery steam generator and a steam turbine.

The powerplant will produce approximately 23.5 net megawatts of electricity while providing the University of California with 125 psig saturated steam (95,000 lb/hr average) for its heating and process steam needs. The University of California, Berkeley, cogeneration facility will burn natural gas and will consume approximately 253,000,000 Btu's/hr (lower heating value) with an anticipated availability of 8,322 hr/yr (95%).

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including OLS Energy—University of California, Berkeley's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the Federal Register on April 24, 1985 (50 FR 16124), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded

an opportunity to request a public hearing. The comment period closed on June 10, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that OLS Energy—University of California, Berkeley, has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a a permanent cogeneration exemption to OLS Energy—University of California, Berkeley, to permit the use of natural gas as the primary energy source for its cogeneration facility at the University of California, Berkeley, in Berkeley, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, D.C., on July 12, 1985.

Richard A. Ransom,

Acting Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-17378 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 8274-002 et al.]

American Hydro Power Co. et al.; Surrender of preliminary permits

July 15, 1985.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. American Hydro Power Company

[Project No. 8274-002]

Take notice that American Hydro Power Company, Permittee for the proposed Alvin R. Bush Project No. 8274 requested by letter dated June 10, 1985, that its preliminary permit be terminated. The preliminary permit was issued on December 10, 1984, and would have expired on May 31, 1986. The project would be located on the Kettle Creek in Clinton County, Pennsylvania.

The Permittee filed the request on June 10, 1985.

2. F. Alan Sever

[Project No. 8280-001]

Take notice that the F. Alan Sever, Permittee for the Jeddo Tunnel Project No. 8280, located on a drainage tunnel in Luzerne County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 14, 1984, and would have expired on November 30, 1986. The Permittee states that analysis of the Jeddo Tunnel Project did not indicate feasibility for development.

The Permittee filed the request on June 17, 1985.

3. Modesto Irrigation District

[Project No. 5303-001]

Take notice that Modesto Irrigation District, Permittee for the proposed Lavezzola Creek Project No. 5303, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 23, 1985, and would have expired December 31, 1987. The project would have been located on Lavezzola and Pauley Creeks in Sierra County, California. The Permittee states that a preliminary permit study found that the project would not be economically feasible to develop at this time.

The Permittee filed the request on June 18, 1985.

4. Ralston Hydro Associates

[Project No. 7983-001]

Take notice that the Ralston Hydro Associates Permittee for the Ralston Hydro Power Project No. 7983 located on Red Run in Lycoming County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 7, 1984, and would have expired on May 31, 1986. The Permittee states that analysis of the Ralston Hydro Power Project did not indicate feasibility for development.

The Permittee filed the request on June 17, 1985.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17288 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-589-000 et al.]

Natural Gas Certificate Filings; Colorado Interstate Gas Company et al.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP85-589-000]

July 12, 1985.

Take notice that on June 7, 1985, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-589-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 10,000 Mcf of natural gas per day for Sinclair Oil Corporation (Sinclair), on an interruptible basis, and for authority to add and delete receipt and delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 10,000 Mcf of natural gas per day for Sinclair from various points on Applicant's system in Wyoming to an existing interconnection with Sinclair in Carbon County, Wyoming. It is stated that Sinclair would use the gas in its Sinclair refinery. Applicant proposes to charge Sinclair 36.08 cents per Mcf plus a 1.25-cent per Mcf Gas Research Institute funding fee for this service. Applicant further proposes to be allowed to add or delete receipt and delivery points for the proposed transportation. It is stated that Applicant would file annual tariff revisions reflecting the addition or deletion of receipt and delivery points.

Applicant states that it is currently transporting the natural gas for Sinclair pursuant to the authority granted to

Applicant in Docket No. CP83-21-000 and Subpart F of Part 157 of the Commission's Regulations.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Company

[Docket No. CP85-624-000]

July 12, 1985.

Take notice that on June 19, 1985, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-624-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 6,500 Mcf of natural gas per day for The Gates Rubber Company (Gates), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport until September 1, 1985, on an interruptible basis, up to 6,500 Mcf of natural gas per day which Williston Basin Interstate Pipeline Company would deliver for Gates' account to Applicant at existing interconnections on Applicant's system in Wyoming. Applicant states it would redeliver thermally equivalent volumes, less fuel and lost or unaccounted-for gas, to Public Service Company of Colorado for Gates' account at an existing interconnection in Adams County, Colorado.

Applicant states that it is currently transporting the volumes of natural gas available to Gates pursuant to the authority granted to Applicant in Docket No. CP83-21-000 and Subpart F of Part 157 of the Commission's Regulations. Applicant indicates that it is currently charging Gates 36.08 cents per Mcf for each Mcf of gas transported and that it proposes to continue to charge such rate.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Columbia Gas Transmission Corporation, Columbia Gas Transmission Company

[Docket No. CP85-663-000]

July 11, 1985.

Take notice that on June 28, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-663-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of International Permalite, Inc. (International Permalite) under their certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 4 billion Btu equivalent of natural gas per day for International Permalite through October 31, 1985. Applicants state that the gas to be transported hereunder would be used as process gas in International Permalite's plant in Florence, Kentucky.

Applicants indicate that the gas to be purchased was not released by Columbia and that such supplies would not exceed the applicable maximum lawful price.

Columbia Gulf states that it would charge its current rate for offshore to Kentucky of 23.92 cents per dt equivalent with 1.69 percent retainage; or lateral onshore to Kentucky—4.28 cents per dt with 1.50 percent retainage; or from Payne, Louisiana to Kentucky—12.76 cents per dt and 1.50 percent retainage; or from Corinth, Mississippi to Kentucky—6.38 cents per dt with 0.75 percent retainage.

Columbia states that it would charge its current rate of 29.93 cents per dt equivalent of volumes that are within the distribution company's total daily entitlement, or its current rate of 41.27 cents per dt equivalent of volumes that are in excess of the distribution company's total daily entitlement, exclusive of company-use and unaccounted-for gas. It is further stated that Columbia would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in the rate filings; this percentage is currently 2.43 percent.

Applicant also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Applicant will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP85-658-000]

July 12, 1985.

Take notice that on June 27, 1985, El Paso Natural Gas Company (Applicant), Post Office Box 1492, El Paso, Texas, 79978, filed in Docket No. CP85-658-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor facilities in Roger Mills County, Oklahoma, and the transportation and delivery of natural gas, on an exchange basis, to ANR Pipeline Company (ANR), all as more fully set forth in the application on file with the Commission and open for public inspection.

Applicant states that the construction and operation of the proposed facilities, together with the requested transportation by exchange, would enable Applicant and ANR to operate more effectively and efficiently their respective pipeline facilities. Applicant states that ANR has purchased large volumes of natural gas in the Overthrust Belt area of Wyoming from Exxon Corporation (Exxon) which volumes of natural gas ANR desires to receive and utilize for its general system supply. It is explained that the volumes of natural gas purchased by ANR from Exxon are not located in close proximity to ANR's interstate pipeline system. Applicant further states that by exchanging volumes of natural gas with ANR in the Anadarko Basin area of Oklahoma and through the utilization of the volumes of natural gas that ANR causes Northwest Pipeline Corporation (Northwest) to tender to Applicant, for ANR's account, at the point of interconnection between the facilities of Applicant and Northwest at Ignacio, Colorado, for Applicant's system supply, would: (i) Help alleviate existing capacity problems on Applicant's Dumas-Plains pipeline system; and (ii) assist ANR in moving its Overthrust Belt area gas to ANR's interstate pipeline transmission system. Applicant and ANR have entered into a gas exchange agreement providing for the free exchange of up to 75,000 Mcf per day.

Applicant states that it has agreed to evaluate periodically the capability of its system to accept for ANR's account, the volume of natural gas tendered to Applicant by Northwest, the volume of natural gas tendered at Ignacio pursuant to similar arrangements with other parties, and the volume of Applicant's

daily flowing and load-equation system supplies. Applicant states that if it determines the need for incremental facilities it would notify ANR of such need. Applicant proposes that ANR after being notified of the need for such additional facilities, would advise Applicant to seek necessary regulatory authorizations to construct and operate facility additions or to instruct Applicant not to make such additions for ANR. In the event that ANR authorized Applicant to seek all necessary regulatory approvals for the construction of facility additions, Applicant explains that ANR would be entitled to utilize the additional capacity in direct proportion to ANR's contribution to the costs of construction and ANR would pay a demand charge with respect to ANR's allocable share of Applicant's costs of service of said facilities. In the event that ANR instructs Applicant not to seek necessary regulatory approvals to construct said facilities then Applicant's obligation under the transportation arrangement to move natural gas through said facilities would be on a best-efforts basis, it is asserted.

Applicant states that it and ANR have agreed to perform their respective exchange obligations without monetary compensation from the other party and that the primary term of the requested exchange is for a period of fifteen years.

Applicant states that it would be required to construct minor facilities which facilities would consist of one 8⅝ inch O.D. tap and valve assembly, with appurtenances, including two 10¾ inch standard orifice-type meters and two flow controllers. Applicant estimates the total cost of those facilities proposed to be constructed and operated by it, including respective overhead, contingency and required filing fees is $266,569 which cost would be financed from internally generated funds.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Great Lakes Gas Transmission

[Docket No. CP85–652–000]

July 12, 1985

Take notice that on June 26, 1985, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP85–652–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for the account of Bethlehem Steel Corporation (Bethlehem Steel), a new customer and end-user, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Bethlehem Steel has requested that the Applicant transport up to 30,000 Mcf of gas per day from the Emerson, Maintoba, delivery point, where the facilities of the Applicant interconnect with the facilities of TransCanada PipeLines Limited, to points where Applicant's facilities interconnect with those of Northern Natural Gas Company, a Division of InterNorth, Inc., and ANR Pipeline Company, a Carlton, Minnesota, and Fortune Lake, Michigan, respectively.

It is further alleged that the term of the proposed transportation service is two years, beginning July 1, 1985, and that the Applicant and Bethlehem Steel have agreed upon initial rates of 12.465 cents per Mcf of natural gas delivered to Carlton Minnesota, and 24.323 cents per Mcf of natural gas delivered to Fortune Lake, Michigan.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP85–648–000]

July 12, 1985.

Take notice that on June 26, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85–648–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to transport on a best-efforts basis up to 14 billion Btu of natural gas per day for Transcontinental Gas Pipe Line Corporation (Transco). Natural would accept Transco's natural gas produced in Eugene Island Block 57, offshore Louisiana, and would deliver the gas at an existing point of interconnection in Eugene Island Block 32 with United Gas Pipe Line Company (United). It is asserted that United and Transco have proposed in Docket No. CP85–452–000 an exchange arrangement involving Transco's Eugene Island natural gas reserves. Natural proposes that the term of service would commence on the date of initial deliveries and end the earliest of (1) ten years thereafter of (2) when Transco's purchase volumes from Eugene Island Block 57 have been depleted or (3) when the parties mutually agree to terminate the underlying agreement.

Natural states that it would provide the transportation service at no charge in exchange for Transco's agreement: (1) To maintain the current level of charges under all rate schedules which Transco provides transportation service to Natural (despite the next two scheduled annual rate increases granted by the Commission in Transco's general rate proceeding Docket Nos. RP83–11–000 and RP83–30–000), (2) to reduce Natural's transportation contract demand quantity under Transco's Rate Schedule X–210 from 30,000 Mcf to 15,000 Mcf of natural gas per day effective April 1, 1984, and to terminate Rate Schedule X–210 on April 1, 1985, and (3) to reduce from time to time the presently applicable transportation contract demand of 10,000 Mcf of natural gas per day under Transco's Rate Schedule X–75.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85–636–000]

July 12, 1985.

Take notice that on June 24, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85–636–000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to implement adjustments to the firm entitlement of certain of Northern's market area utility customers as a result of the stipulation and agreement of settlement (stipulation and agreement) filed in resolution of issues in Docket Nos. RP82–71, TA83–1–59, TA84–1–59, and TA85–1–59, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that as part of the stipulation and agreement, Northern agreed to provide for a firm entitlement adjustment program which would be in effect through November 1986. Northern states that this program would allow each of its market area customers to reduce or realign its respective level of firm entitlement in the following manner:

(1) Effective March 27, 1985, November 27, 1985, and November 27, 1986, each of Northern's market area utility customers would be allowed to reduce its firm entitlement under the CD–1, CDO–1, or PL–1 Rate Schedules up to a maximum of 2 percent of its then

currently effective firm entitlement (Turnback Program).

(2) Any customer not requesting a reduction in its currently effective firm entitlement or who only desires to reduce a portion of the 2 percent limit, may realign from CD–1, CDO–1 or PL–1 to SS–1 up to the maximum 2 percent limit or the balance of the 2 percent limit not reduced.

(3) If a customer does not reduce or realign up to the 2 percent limit in any year, a carryover of the unutilized portion of such 2 percent limit to a subsequent year will not be allowed. A customer would have the option to participate in all or any of the three phases of the Turnback Program.

Northern states that as a result of the implementation of the firm entitlement adjustment program, it seeks authority to realign and reduce 45,604 Mcf of gas per day of its market area system firm entitlement to be effective March 27, 1985. Northern indicates that the proposed reduction in firm entitlement is the net result of 52,481 Mcf of gas per day decrease in contract demand, 180 Mcf per day decrease in contract demand offsystem, 12,194 Mcf per day increase in seasonal service, and 5,137 Mcf per day decrease in pipe line service.

Northern states that it agreed to file a certificate application under section 7(c) of the Natural Gas Act within 30 days of the date of filing of the stipulation and agreement or as soon afterward as possible to implement the first phase of the turnback program to be effective March 27, 1985. Northern also states that no facility modifications are required to implement the proposed adjustments.

Northern also indicates that section VII of the stipulation and agreement provides that upon effectuation of a reduction in the firm entitlement of Northern's customers, each customer's additional demand quantities (ADQ's), as established in Northern's rate settlement in Docket No. RP82–71 and billed during the winter heating months of December through March, would be increased by an increment equal to the daily firm entitlement reduction (CD–1, CDO–1 or PL–1 reduction). Northern also states that this reduction would not apply to any realignment from those same rate schedules to Rate Schedule SS–1 and that through October 26, 1985, the volume to be utilized in computing the minimum monthly bill volumes for the Rate Schedule PL–1 customers would remain at the level in effect on October 27, 1984.

In addition, Northern states that it would not request authority to adjust its demand rate as of the effective date of each phase in the turnback program but would recover its costs through Commission-approved tracking mechanisms. Finally, Northern indicates that in any general rate proceeding made prior to November 27, 1987, it would not be precluded from filing to recover any demand revenue shortfall resulting from the turnback program.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

8. Panhandle Eastern Pipeline Company

[Docket No. CP85–611–000]

July 12, 1985.

Take notice that on June 13, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001 filed in Docket No. CP85–611–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of its Sneed 100 Line as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to retire from service 17.15 miles of its Sneed-to-Hansford 100 pipeline from 2 gate to 4 gate and related facilities, all located in Hansford and Hutchinson Counties, Texas, between the Sneed and Hansford compressor stations. Panhandle states that this line was constructed in 1930, is severely deteriorated and would require extensive repairs if not abandoned. Panhandle states further that it has sufficient capacity in the area to move its gas supply without these facilities and that this abandonment will reduce its costs. Panhandle further explains the subject line has been previously looped by a 22-inch line which will continue to be operated. Panhandle advises that its proposal will have no negative effect on any customer service.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP85–637–000]

July 12, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–637–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Richardson Battery Parts Division-Witco Chemical Corporation (Richardson) under the certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 1,000 Mcf of natural gas per day for Richardson. It is stated that the gas to be transported would be purchased from Damson Oil Corporation (Damson) and would be used as boiler fuel in Richardson's plant in Indianapolis, Indiana. It is explained that the gas has been released by Panhandle and would be subject to the provisions of section 102 of the Natural Gas Policy Act. Panhandle would receive the gas from Damson at existing receipt points in Texas County, Oklahoma, and would redeliver the gas at an existing interconnection with Citizens Gas and Coke Utility, the distributor serving Richardson, in Marion County, Indiana, for ultimate delivery to Richardson's plant in Indianapolis, Indiana. The service would be until the earlier of 18 months from April 22, 1985, or the termination of authorization provided by Subpart F of 18 CFR Part 157, or the termination of the transportation agreement by the parties thereto.

It is indicated that Panhandle would charge the currently applicable transportation rate set forth in its Rate Schedule OST.

Panhandle also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Panhandle Eastern Pipe Line Company

[Docket No. CP85–639–000]

July 12, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–639–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Broderick Co., a Division of Harsco Corporation (Broderick), under the certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the

Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 2,000 Mcf of natural gas per day for Broderick pursuant to a transportation agreement dated April 16, 1985, among Applicant, Broderick and Indiana Gas Company (Indiana Gas). Applicant states that the gas to be transported would be purchased from Yankee Resources, Inc. (Yankee), and would be used for forge furnaces, heat treating and plant heating and protection in Broderick's facility in Muncie, Indiana.

It is stated that Applicant would receive the gas on an interruptible basis, at an existing point of interconnection between the facilities of Applicant and others in Kingfisher, Woodward and Major Counties, Oklahoma. It is further stated that Applicant would transport and deliver such gas to Indiana Gas in Delaware County, Indiana. Indiana Gas, it is said, would in turn make ultimate delivery of the gas to Broderick at its facility in Muncie, Indiana.

Applicant states that it would charge the OST contract service rate of 42 cents per MMBtu or the OST excess service rate of 87 cents per MMBtu. In addition, Applicant states it would collect the General R&D Funding Unit of the Gas Research Institute.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

11. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-680-000]

July 11, 1985.

Take notice that on July 9, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-680-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for LOOP, Inc. (LOOP), the construction and operation of a subsea hot tap and abandonment authority for the transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that LOOP has reserved interests in certain quantities of gas produced in offshore Louisiana. Tennessee has agreed to receive the natural gas produced from such supply sources and redeliver thermally equivalent volumes to LOOP for its own use. It is explained that pursuant to the terms of a June 10, 1985, gas transportation agreement between Tennessee and Tenngasco Corporation (Tenngasco), acting as agent for LOOP, Tennessee would accept and receive on an interruptible basis, up to 3,000 Mcf of natural gas per day for the account of LOOP from points of receipt located in Vermilion Area Block 122; East Cameron Block 129; Ship Shoal Area Block 181; Eugene Island Area Blocks 215 and 343; and Bay Marchand Block 5, all in offshore Louisiana. In addition, Tennessee states that it would have the right to accept excess quantities provided that such excess quantities do not exceed 2,000 Mcf per day.

It is stated that Tennessee would then transport and redeliver thermally equivalent quantities, less volumes for Tennessee's fuel and uses and lost and unaccounted for volumes, due to processing, to LOOP at a proposed subsea interconnection between the facilities of Tennessee and LOOP to be constructed in Grand Isle Block 39, offshore Louisiana. It is also stated that deliveries of plant volume reductions would be made to the Yscloskey Processing Plant, onshore Louisiana, from the Ship Shoal Block 181, Eugene Island Block 215 and 343, and Bay Marchand receipt points and to the Blue Water Processing Plant, onshore Louisiana, from the Vermilion Block 122 and East Cameron Block 129 receipt points. Tennessee submits that the term of the transportation agreement expires December 31, 1988. Tennessee requests abandonment authorization to be effective 11:59 P.M. CST December 31, 1988.

It is asserted that in order to effectuate the deliveries from Tennessee to LOOP, Tennessee proposes to install a subsea hot tap and valve on its existing 12-inch line in Grand Isle Block 39, offshore Louisiana. Tennessee estimates the cost of installing the proposed facilities to be $243,500. It is stated that LOOP has agreed to reimburse Tennessee for all costs and expenses incurred in the construction of Tennessee's hot tap and appurtenant facilities necessary to connect the facilities of LOOP and to effect the transportation service. It is explained that all funds necessary for the proposed construction would be supplied from current working funds available to Tennessee and its parent, Tenneco Inc. It is also explained that LOOP would use the gas transported by Tennessee to generate electricity for use on its offshore oil port facilities in Grand Isle Block 59, offshore Louisiana.

It is submitted that Tennessee would charge Tenngasco for the transportation service a volume charge equal to the product of 10.63 cents multiplied by the total volume in Mcf of gas delivered by Tennessee for the account of Tenngasco during the month. In addition to the volume charge, the GRI surcharge of 1.25 cents per Mcf would be assessed. It is submitted that Tennessee would also charge Tenngasco a minimum monthly bill which would consist of the volume charge of 10.63 cents multiplied by the minimum bill volume, which would consist of the number of days in said month multiplied by sixty-six and two-thirds percent of the transportation quantity; provided, however, that the minimum bill volume would be reduced by the volumes tendered and not taken by Tennessee and by the volumes retained for Tennessee's system fuel and uses and gas lost and unaccounted for. It is also stated that Tennessee would charge Tenngasco for plant volume reduction a charge equal to 7.51 cents per Mcf of plant volume reduction delivered to the Blue Water Processing Plant from the Vermilion Block 122 receipt point, 7.62 cents per Mcf of plant volume reduction delivered to the Blue Water Processing Plant from East Cameron Block 129 receipt point, 9.62 cents per Mcf of plant volume reduction delivered to the Yscloskey Processing Plant from the Ship Shoal Block 181 receipt point, 10.94 cents per Mcf of plant volume reduction delivered to the Yscloskey Processing Plant from the Eugene Island Block 215 receipt point, 6.71 cents per Mcf of plant volume reduction delivered to the Yscloskey Processing Plant from the Bay Marchand receipt point, and 11.35 cents per Mcf of plant volume reduction delivered to the Yscloskey Processing Plant from the Eugene Island 343 receipt point. Additionally, it is explained , LOOP would provide to Tennessee 1.3 percent of the daily volume of gas received for delivery at the Grand Isle 39 point of delivery for Tennessee's fuel and uses and gas lost and unaccounted for as well as 1.2 percent of the daily volumes of plant volume reduction received at Vermilion Block 122, East Cameron Block 139, and Bay Marchand, 1.5 percent of the daily volumes of plant volume reduction received at Ship Shoal Block 181, and 1.7 percent of the daily volumes of plant volume reduction received at Eugene Island 215 and Eugene Island 343 for Tennessee's fuel and uses and gas lost and unaccounted for.

Finally, Tennessee states it would charge a liquids transportation charge for transportation of liquid hydrocarbons to separation facilities at Pecan Island, Vermilion Parish, Louisiana, Cocodrie, Terrebonne Parish, Louisiana, or Leeville, Lafourche Parish,

Louisiana, depending on the point of receipt involved.

Tennessee maintains that the proposed service would assist LOOP in obtaining a less expensive source of energy to generate electricity on it soffshore oil port facilities.

Comment date: July 31, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 385.211 and 385.214) 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 filing 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the conquest. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Act.

Kenneth F. Plumb,

Secretary.

[FR 85-17287 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-583-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; O'Brien Energy Systems, Inc., et al.

July 12, 1985.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. O'Brien Energy Systems Inc.

[Docket No. QF85-583-000]

On June 7, 1985, O'Brien Energy Systems Inc. (Applicant), Green and Washington Streets, Downingtown, Pennsylvania, 19335 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a gas turbine-steam turbine combined cycle cogeneration plant. The primary energy source for the cogeneration facility will be natural gas. The power production capacity of the facility will be approximately 41 MW electrical, with average thermal output of 23,750 lbs/hr. steam. The facility will be located at the manufacturing site of Merchants Refrigerating Company, 950 South Sanborn Road, Salinas, California, 93901. Installation will begin in June 1986 with commencement of operation planned for June 1987.

2. Himmelberger-Harrison Co., Inc.

[Docket No. QF85-565-000]

On June 24, 1985, Himmelberger-Harrison Company, Inc. (Applicant), P.O. Box 108, Morehouse, Missouri 63868 submitted for filing an application for certification of a facility as a cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility located at Morehouse, Missouri is a cogeneration facility and a small power producer. The facility consists of a biomass fired boiler, an extraction turbine and a condensing turbine. The cogeneration aspect of the plant utilizes a topping cycle extraction turbine. The thermal energy remaining in the extracted steam is used in plant process to dry lumber and heat the plant. Electrical output of the cogeneration portion of the facility is approximately 125 kilowatts. Installation of the facility will begin in July 1985 with completion due by October 1985.

3. Himmelberger-Harrison Co., Inc.

[Docket No. QF85-565-001]

On June 24, 1985, Himmelberger-Harrison Company, Inc. (Applicant), P.O. Box 108, Morehouse Missouri, 63868 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.

The facility located at Morehouse, Missouri is a cogeneration facility and a small power producer. The facility consists of a biomass fired boiler, an extraction turbine and a condensing turbine. The primary energy source will be kiln dried Hardwood scrap. Electrical output of the small power production portion of the facility will be approximately 400 kilowatts.

4. Swift River/Hafslund Company

[Docket No. QF85-562-000]

On June 24, 1985, Swift River/Hafslund Company (Applicant), of 10 Harbor Street, Danversport, Massachusetts 01923 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.

The small power production facility will be located at the Greenville Biomass Project in the Town of Greenville, Maine. The facility will contain a boiler and a steam-turbine generator. The primary energy source will be biomass in the form of wood and wood wastes. The electric power production capacity of the facility will be 13.8 MW.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17286 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-43-000]

Cascade Natural Gas Corporation; Petition for Exemption and Interim Relief

Issued: July 18, 1985.

Take notice that on July 1, 1985, the Cascade Natural Gas Corporation (Cascade) filed a petition with the Commission under section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) and § 282.206(b) of the Commission's regulations for an exemption from the Commission's incremental pricing rules with regard to proposed natural gas sales to Mobil Oil Corporation and Shell Oil Company for use in their non-exempt industrial facilities. In addition Cascade requests interim relief under Rule 1113 of the Commission's rules of practice and procedure.

Cascade asserts that its sales to industrial customers have declined precipitously and as a result its high-priority customers have absorbed a greater portion of the system's fixed costs. Cascade states that Mobil and Shell have refinery by-products, primarily No. 6 fuel oil, available to them for use at the facilities in question at prices lower than those Cascade is required to charge for natural gas under the Commission's incremental pricing rules, 18 CFR 282.101 *et. seq.* The disparity in pricing levels between incrementally priced natural gas and the alternative fuel available to Mobil and Shell has continued without material change for an extended period, and Cascade asserts that without the requested exemption its sales of gas to Mobil and Shell will not be economically feasible, and accordingly, will not be made. If the requested exemption is granted, Mobil has stated it could purchase 22 MMth of natural gas per year; Shell has stated it could purchase 34 MMth per year.

Cascade also states that its facilities are currently underutilized and that the proposed sales to Mobil and Shell will contribute $2.7 million per year to Cascade's total fixed costs, and reduce or eliminate the need for a general rate increase by Cascade. Cascade asks for interim relief in order to realize the benefits of the proposed sales as soon as possible.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's rules of practice and procedure, 18 CFR 385.1101-.1117 (1985). Any person desiring to participate in this proceeding shall file a motion to intervene in accordance with Rule 1105 of the Commission's rules of practice and procedure. All motions to intervene must be filed within fifteen days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17357 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-582-000]

Ogden Martin Systems of Bristol, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 18, 1985.

On June 27, 1985, Ogden Martin Systems of Bristol, Inc., (Applicant) of 140 East Ridgewood, Paramus, New Jersey 07652 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.

The small power production facility, known as the Bristol, Connecticut Resource Recovery Project, will be located in the City of Bristol, Connecticut. The facility will generate electric power by burning municipal solid waste (MSW) as the primary energy source. The net electric power production capacity of the facility will be 13.2 MW. The only planned usage of natural gas will be for the purpose of warming boiler prior to ignition of the MSW that will not exceed 25 percent of total energy input during any calendar year.

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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17290 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-612-000 et al.]

Centel Corp. et al.; Electric Rate and Corporate Regulation Filings

July 15, 1985.

Take notice that the following filings have been made with the Commission.

1. Centel Corporation

[Docket No. ER85-612-000]

Take notice that Centel Corporation on July 8, 1985, tendered for filing a proposed Appendix No. 1 to Service Schedule P (Participation Power Service) and Appendix No. 1 to Service Schedule J (Displacement Power Service), both as a part of the Electric Interconnection and Interchange Agreement between Centel Corporation and Sunflower Electric Cooperative, Inc., dated June 3, 1980. These Appendixes contain the determination calculations for the contract year beginning June 1, 1985 and ending May 31, 1986.

Centel proposes an effective date of June 1, 1985 for the proposed Appendixes and therefore request waiver of the Commission's notice requirements.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER85-615-000]

Take notice that Commonwealth Edison Company, on July 9, 1985, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revised the Electric Service Contract between Commonwealth Edison Company and the City of St. Charles, Illinois, to provide for a new

point of electric supply to the City by the Company.

A copy of the filing has been served upon the City of St. Charles, Illinois.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER85-607-000]

Take notice that on July 8, 1985, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing as an initial rate schedule an agreement to provide transmission service to the Power Authority of the State of New York ("NYPA"). The Rate Schedule provides for a monthly transmission charge of $0.89 per kilowatt for firm transmission of power and energy sold by NYPA to Municipal Distribution Agencies ("MDAs") on Long Island and for an interruptible transmission rate of 2.7 mills per kwh for any additional interruptible service that NYPA might schedule to the MDAs.

Con Edison requests a waiver of notice requirements so that the Rate Schedule can be made effective as of July 1, 1985.

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power and Light Company

[Docket No. ER85-380-003]

Take notice that on June 17, 1984 ("FPL"), tendered for filing, in compliance with the Commission's order of May 17, 1985, revised rates and cost support data which reflect the Commission's determination that summarily disallowed FP&L's inclusion of accumulated deferred investment tax credits (ADITC) as a separate component of its capital structure.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER85-614-000]

Take notice that on July 9, 1985, Pacific Gas and Electric Company ("PGandE") tendered for filing changes to the rate schedules under the Interconnection Agreement between PGandE and the City of Santa Clara (the "Santa Clara Agreement").

The Santa Clara Agreement provides for firm transmission service between Points of Receipt and Points of Delivery. The City of ("Santa Clara") wishes to include new Points of Receipt and Delivery at PGandE's Tesla Substation ("Tesla"), and to increase the Contract Coincident Rate of Delivery and the Maximum Rate of Delivery at the city of Santa Clara. The new Points of Receipt and Delivery at Tesla will allow Santa Clara to import power over the existing Pacific Northwest-Southwest Intertie pursuant to the assignment by the Sacramento Municipal Utility District ("SMUD") of transmission service under its EVH contract (FERC Docket No. ER85-342-000). PGandE requests an effective date of June 1, 1986.

PGandE requests that these new Points of Receipt and Delivery will be effective only until the earliest of the following:

(1) May 1, 1986; or

(2) The date when the California-Oregon Transmission Project (the "Project") becomes operational; or

(3) The date when the participation of PGandE in the Project is terminated because the approvals required under section 11.4 of the Project's Memorandum of Understanding (the "MOU") cannot be obtained or because those approvals are unsatsifactory to PGandE; or

(4) The date when the Project is terminated prior to its operation, such termination to be deemed to have occurred on January 1, 1993, if no work has been on the Project for three years prior to that date.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER85-608-000]

Take notice that on July 8, 1985, Public Service Company of New Mexico filed a petition to amend the fuel adjustment clause in its wholesale rate schedules for service to the Cities of Gallup and Farmington, New Mexico, the Department of Energy—Los Alamos, Plains Electric Generation and Transmission Cooperative, Inc., and Texas-New Mexico Power Company. PNM proposes to revise its fuel adjustment clause to exclude the effect of the availability of test energy from Palo Verde Nuclear generating station Units 1, 2, and 3 from the calculation of its fuel adjustment charges and to include fees for the disposal of spent nuclear fuel and/or high level radioactive waste in such charge. PNM requests that its revisions become effective as of June 12, except for Gallup, for whom the change is proposed to become effective as of September 2, 1986.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Union Electric Company

[Docket No. ER85-610-000]

Take notice that Union Electric Company, on July 8, 1985, tendered for filing First Amendment dated June 20, 1985, to the Wholesale Electric Service Agreement of March 17, 1980 between City of Farmington, Missouri, and Union Electric Company.

Union Electric states the purpose of the amendment is to provide for a new delivery point between the parties.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER85-611-000]

Take notice that Union Electric Company, on July 8, 1985, tended for filing Third Amendment dated June 11, 1985, to the Interchange Agreement of June 28, 1978 between Associated Electric Cooperative, Incorporated, and Union Electric Company.

Union Electric states the purpose of the Amendment is to provide for revised reservation charges for certain classes of power, to establish a new class of power, Term Energy, and to comply with FERC Order No. 84.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Vermont Yankee Nuclear Power Corporation

[Docket No. ER85-300-002]

Take notice that on May 31, 1985, Vermont Yankee Nuclear Power Corporation tendered for filing, pursuant to the Commission's order of May 1, 1985, the original and six copies of executed amendments to its power contracts with each of its sponsors specifying a 15.5% return on common equity.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

10. Kansas Gas and Electric Company

[Docket No. ER85-432-001]

Take notice that on July 1, 1985, Kansas Gas and Electric Company tendered for filing information relating to its filing for revised rates in compliance with a deficiency letter from the Commission dated June 4, 1985.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

11. The Kansas Power and Light Company

[Docket No. ER85-613-000]

Take notice that on July 8, 1985, The Kansas Power and Light Company (KPL) tendered for filing a proposed cancellation of FPC Rate Schedule No. 166. Said rate schedule was dated December 7, 1984 between the City Netawaka and KPL.

KPL states that the termination of the contract will be effective not later than September 1, 1985.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17354 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-647-000 et al.]

Natural Gas Pipeline Company of America et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission.

1. Natural Gas Pipeline Company of America

July 12, 1985.

[Docket No. CP85-647-000]

Take notice that on June 25, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-647-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Wabash Alloys, Inc. (Wabash), an industrial end-user of the gas, under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to transport a maximum of 4.3 billion Btu equivalent of natural gas per day for Wabash pursuant to the terms of a May 1, 1985, gastransportation agreement between the two parties. Natural states that it would charge Wabash a transportation fee of 27.2 cents per dt equivalent of gas plus the Gas Research Institute's surcharge funding unit per dt (currently 1.21 cents per dt) as shown on Sheet No. 5A of Natural's FERC Gas Tariff, Volume No. 1, for gas transported from Woodward County, Oklahoma, to its interconnection with Northern Indiana Public Service Company (NIPSCO) on the border between Cook County, Illinois, and Lake County, Indiana. It is explained that NIPSCO, the local distribution company, would redeliver the natural gas to Wabash which would use the gas in its aluminum smelting operations at its Wabash, Indiana, plant. The request states that the gas would be sold to Wabash by Park-Ohio Energy, Inc., *et al.*, and initially would be delivered to Natural by Oklahoma Natural Gas Company, a Division of ONEOK Inc.

Natural also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Natural would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Natural advises that the transportation service commenced on May 1, 1985, as reported in Docket No. ST85-1051, for a 120-day period terminating August 29, 1985. Natural proposes to continue this service without cessation until the earlier of (1) an effective date of a final rule in Docket No. RM85-1-000, (2) October 21, 1985, under the requested authorization, or (3) May 1, 1987, when the subject gas transportation agreement expires by its own terms.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

July 12, 1985.

[Docket No. CP85-653-000]

Take notice that on June 27, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-653-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Westvaco Corporation (Westvaco) under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport a maximum of 10 billion Btu's of natural gas per day for Westvaco from Polk County, Texas to Vermilion Parish, Louisiana, Cameron Meadows in Cameron Parish, Louisiana and near Lowery in Cameron Parish, Louisiana. It is stated that Natural would charge transportation fees of 8.9 cents, 5.2 cents an 7.1 cents per million Btu of gas received by Natural for the account of Westvaco in Polk County, Texas and delivered in Vermilion Parish, Louisiana, Cameron Meadows in Cameron Parish, Louisiana and near Lowery in Cameron Parish, Louisiana, respectively.

Natural further states that it commenced this service on May 1, 1985 pursuant to §157.209(e)(1) for a 120-day period that terminates August 29, 1985. Natural states that it proposes to continue this service from August 29, 1985, until the earlier of (1) an effective date of a final rule in Docket No. RM85-1-000, (2) the date authorization would expire (presently October 31, 1985), under the notice procedure authorization, or (3) May 1, 1986, pursuant to the April 8, 1985, gas transportation agreement between Natural and Westvaco.

Natural also requests flexible authority to add or delete receipt/

delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Natural would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Michigan Consolidated Gas Company—Interstate Storage Division

[Docket No. CP85-646-000]

July 15, 1985.

Take notice that on June 25, 1985, Michigan Consolidated Gas Company (Mich Con), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP85-646-000 a request pursuant to §157.205 of the Commission' Regulations under the Natural Gas Act (18 CFR 157.205) for authority to undertake a storage service for AMCA International (AMCA) under the blanket certificate issued in Docket No. CP82-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Mich Con would provide this service through its Interstate Storage Division (ISD) pursuant to §157.213(b) of the Commission's Regulations and a storage service agreement (Agreement) between Mich Con and AMCA dated June 17, 1985. It is explained that pursuant to the Agreement, Mich Con (through ISD) would provide storage service on behalf of AMCA for a period of 5 years. It is stated that ISD would receive up to 100,000 McF (approximately 100 billion Btu) of storage volumes, plus compressor fuel of 0.9 percent of such volumes, which AMCA would cause ANR Pipeline Company (ANR) to tender to ISD for AMCA's account at existing points of interconnection between the pipeline systems of ISD and ANR as the parties agree upon from time to time. ISD would store the gas and redeliver equivalent volumes, exclusive of compressor fuel, to ANR for AMCA's account.

It is asserted that ISD would receive 49.22 cents per Mcf of storage contract demand ($4,102 per month). It is stated that such revenues received by ISD would be refunded to ISD's customers in accordance with Article IX of the stipulation and agreement approved by the Commission's letter order issued January 11, 1985, in Docket No. RP84-13-000.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-541-000]

July 15, 1985.

Take notice that on May 24, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-541-000 a request pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Bethlehem Steel Corporation (Bethlehem) under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commisssion and open to public inspection.

Northern states that the proposed transportation service would be performed in accordance with a transportation agreement dated March 15, 1985, which provides for the transportation of up to 20,000 Mcf of natural gas per day. Such gas would be received at an existing interconnection between Northern and Funk Fuels Corporation in Beaver County, Oklahoma. Northern would deliver equivalent volumes for the account of Bethehem at a common point on Northern's system at Oasis, Pecos County, Texas. The gas transported to Oasis would then be delivered by displacement for the account of Bethlehem at the facilities of Columbia Gulf Transmission Company (Columbia Gulf) at Egan, Arcadia Parish, Louisiana (Egan). It is explained that Columbia Gulf would transport the gas to Columbia Gas Transmission Corporation which then would transport it to Columbia Gas of Pennsylvania, Inc., the local distribution company for ultimate delievery to Bethlehem's Hanover Quarry, Pennsylvania, plant. Northern further indicates that this same route would be used to serve Bethlehem's plants at Steelton and Bethlehem, Pennsylvania, with the exception that the local distribution company is UGI Corporation. Northern proposes to transport gas through December 31, 1986.

Northern states that it would charge Bethlehem 10.92 cents per Mcf and retain 1.25 percent of the gas for fuel. The gas would be purchased by Bethlehem from Northern Gas Marketing, Inc., and would be used as boiler, reheat furnace, and lime kiln fuel at Bethlehem's plants in Steelton, Hanover Quarry, and Bethlehem, Pennsylvania.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-671-000]

July 12, 1985.

Taken notice that on July 2, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-671-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the establishment of four transportation rate schedules and blanket authorization to provide firm and interruptible transportation service pursuant to such rate schedules, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish two new transportation rate schedules, Rate Schedle TF-1 and Rate Schedule IT-1, to be incorporated in Applicant's FERC Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and to establish two new transportation rate schedules, Rate Schedule TF-1 and Rate Schedule IT-1 to be incorporated in Applicant's FERC Gas Tariff, Original Volume No. 2 (Volume 2 Tariff). It is stated that Rate Schedule TF-1 is proposed to become a permanent part of Applicant's Volume 1 and Volume 2 Tariffs and reflects the rules and regulations proposed in Docket No. RM85-1. It is claimed that the appropriate time Applicant would file any necessary changes to Rate Schedule TF-1 to comply with the conditions issued in the final order in Docket No. RM85-1. It is further stated that Rate Schedule IT-1 is proposed to be an interim rate schedule under Applicant's Volume 1 and Volume 2 Tariffs and would terminate on the date that Applicant implemented a new rate schedule reflecting the requirements of the final order issued in Docket No. RM85-1. Applicant also proposes blanket authorization to transfer existing firm entitlement under Rate Schedules CD-1 or CDO-1 to proposed Rate Schedule TF-1 and vice versa to achieve maximum flexibility under the proposed transportation program. It is claimed that other than establishing four new transportation rate schedules and

seeking authority to transport gas pursuant to all the terms and conditions set forth in Rate Schedules TF–1 and IT–1 of Applicants Volume 1 and Volume 2 Tariffs, respectively. Applicant proposes no changes in currently authorized facilities or services.

Applicant states that as the price of natural gas in the spot or short term markets has continued to compete with the price of gas in the long-term contract market, it has received numerous requests for transportation service on behalf of local distribution customers and end-users within its market area. It is asserted that in response to competitive forces in the marketplace Applicant proposes to establish four new transportation services in order to complement its existing transportation services. It is averred that these proposed rate schedules would complement Applicant's on-going efforts to transport gas to off-system markets and would provide Applicant's utility customers greater flexibility in rates and services to adjust to rapidly changing Market conditions to serve more effectively and efficiently their market requirements and to promote end-user utilization of its distributor's facilities. It is further averred that both a firm and interruptible transportation service would be available to Applicant's customers which services may displace sales on Applicant's system.

Applicant proposes to continue transportation for existing on-system end-users and on-system utility customers which are being provided transportation services under Rate Schedule EUT–1 of Applicant's Volume 1 Tariff and/or Part 284 of the Commission's Regulations, respectively, until the termination date of their existing contracts. It is stated that when the proposed rate schedules become effective any on-system utility customers woud be allowed to have its own gas supply transported under the proposed Rate Schedules TF–1 or IT–1 of Applicant's Volume 1 and Volume 2 Tariffs, whichever would be applicable.

Applicant asserts it would continue to be active in transporting gas to off-system markets, and that such transportation services would be subject to available capacity and Applicant's approved transportation rates for such services.

Applicant states its proposed Rate Schedule TF–1 would be available for the transportation of natural gas to any of Applicant's distribution customers (Shipper) purchasing contract demand from Applicant pursuant to Rate Schedules CD–1 or CD0–1 under Applicant's Volume 1 Tariff.

It is claimed Rate Schedule TF–1 is designed to be an integral part of Applicant's unbundled services as a capacity reserved service. It is stated that the provisions of transfer to Rate Schedule TF–1 and the TF–1 rates are designed to allow Shippers the opportunity to access competing supplies of gas while minimizing the potential for cost shifting among customers.

Service rendered under Rate Schedule TF–1, up to the transportation demand quantity (TDQ) would be firm reservation of capacity and would not be subject to interruption, it is stated.

Applicant explains that the TDQ would be the maximum daily volume of natural gas that it is obligated to receive and transport for Shipper at the receipt point(s), and delivery point(s), respectively, as set forth in the TF–1 transportation service agreement, which would be required to be executed between Applicant and Shipper for service under the rate schedule, except as provided in Section 8 of the rate schedule.

It is claimed that in order to plan and accommodate system supply sales requirements a minimum one-year term would be required for all service agreements executed under Rate Schedule TF–1.

Applicant states that upon requesting an initial TDQ under Rate Schedule TF–1 the Shipper would have the right to request a concurrent reduction in his effective firm entitlement under Rate Schedules CD–1 or CDO–1 by an amount not exceeding the requested TDQ. It is further stated the TDQ may be increased or decreased as long as there is a corresponding increase or decrease in sales firm entitlement under Rate Schedules CD–1 or CDO–1, such that the net effect on the Shipper's total firm entitlement for transportation and sales is zero. It is claimed the Shipper would be required to execute new service agreements for any change in service and that Applicant would require the Shipper to nominate on or before May 1 of each year, commencing May 1, 1986, any changes in the TDQ under Rate Schedule TF–1 and corresponding changes in its sales firm entitlement under Rate Schedules CD–1 or CDO–1. Once the customer has transferred sales firm entitlement to transportation firm entitlement, it is stated, such customer would relinquish his right to that transferred sales firm entitlement under Rate Schedules CD–1 or CDO–1. It is claimed Applicant would notify Shipper by September 1 of each year as to when and to the extent such increase or decrease can be accommodated, based upon Applicant's ability to provide the transportation service without detriment or disadvantage to its sales customers and subject to its operating and system requirements. Applicant states that in its sole judgement it may waive the nomination period if conditions warrant such action.

Applicant states this nomination would not preclude Shipper from requesting any additions or deletions to the receipt point(s) or delivery point(s) of the TF–1 transportation service agreement.

Applicant proposes to charge a two part rate for service rendered under Rate Schedule TF–1. It is explained that the demand rate proposed to be charged would be equivalent to the currently effective demand rate under Rate Schedules CD–1 or CDO–1 applicable to the rate zone which contains the delivery point(s) where gas would be delivered by Applicant to Shipper. It is asserted that the commodity rate proposed to be charged per Mcf at 1000 Btu, would be equivalent to the non-gas component of Applicant's CD–1 or CDO–1 commodity rate per Mcf at 1000 Btu (whichever is applicable) for the rate zone applicable to the delivery point(s) where gas is being transported by Applicant to Shipper. Applicant also proposes to charge Shipper the currently effective GRI surcharge. In addition, Applicant claims it would charge a commodity rate of 21.56 cents per Mcf at 1000 Btu for fuel and unaccounted-for losses based upon the same factor as currently included in Applicant's Purchased Gas Adjustment filing in Docket No. TA85–3–59. It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exceed 110 percent or is less than 90 percent of the nominated quantity as established in section 7 of Rate Schedule TF–1, Applicant would have the right to charge Shipper a penalty of $5.00 for each Mcf of deliveries which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering the gas to the specified receipt points on Applicant's system for transportation by Applicant and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with any new facilities constructed and paid for by Applicant to enable Applicant to receive or delivery volumes of gas. It is claimed that such cost of service would be based

upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated under Rate Schedule TF-1 would be considered the first volumes delivered to Shipper each day.

It is asserted no change in the total firm entitlement of Shippers would result from the implementation of this rate schedule, since the sum of the TDQ contracted for under Rate Schedule TF-1 plus the adjusted sales firm entitlement of the Shipper would equal the currently effective firm entitlement for the respective Shipper under currently existing service agreements as detailed in the Index of Purchasers contained in Applicant's Volume 1 Tariff.

Applicant states that its proposed Rate Schedule IT-1 would be a best efforts interruptible transportation service available to any Shipper who has executed a transportation service agreement for the transportation of natural gas under Rate Schedule TF-1 of Applicant's Volume 1 Tariff.

Applicant claims that some of its customers may desire a short-term, interruptible transportation service for spot market gas and that Rate Schedule IT-1 would be available to accommodate such need. It is asserted that Rate Schedule IT-1 would terminate after the final order issued in Docket No. RM85-1.

It is claimed Rate Schedule IT-1 would be applicable for the transportation of natural gas in excess of Shipper's TDQ, under Applicant's Rate Schedule IT-1 of its Volume 1 Tariff. Applicant asserts service rendered under this rate schedule would be interruptible service subject to interruption as deemed necessary in Applicant's sole judgement.

It is stated that for all volumes of natural gas transported under Rate Schedule IT-1, Shipper would pay Applicant a commodity rate Mcf at 1000 Btu equivalent to the commodity rate charged under proposed Rate Schedule TF-1 for the rate zone applicable to the delivery point(s) where gas would be delivered to Shipper. In addition it is stated Applicant would charge Shipper the currently effective GRI Surcharge.

In addition Applicant states it would charge Shipper a commodity rate per Mcf at 1000 Btu for fuel and unaccounted-for losses which rate Applicant claims is equivalent to the fuel rate charged under its proposed Rate Schedule TF-1 of its Volume 1 Tariff.

It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exeed 110 percent or is less than 90 percent of the nominated quantity as established in section 7 of Rate Schedule IT-1, Applicant would have the right to charge Shipper a penalty of $5.00 for each Mcf of deliveries which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering the gas to the specified receipt points on Applicant's system for transportation by Applicant and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with any new facilities constructed and paid for by Applicant to enable Applicant to receive or deliver volumes of gas. It is claimed that such cost of service would be based upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated pursuant to Rate Schedule IT-1 would be considered the second volumes delivered each day.

Applicant asserts that Rate Schedule TF-1 proposed to be included in Applicant's Volume 2 Tariff would be a firm transportation service available to any Shipper currently purchasing natural gas from Applicant pursuant to Applicant's Panhandle, Plains, or Permian area rates under Applicant's Volume 2 Tariff.

It is claimed Rate Schedule TF-1 is designed to be an integal part of Applicant's unbundled services as a capacity reserved service. It is stated that the provisions of transfer to Rate Schedule TF-1 and the TF-1 rates are designed to allow users the opportunity to access competing supplies of gas while minimizing the potential for cost shifting among customers.

Service rendered under Rate Schedule TF-1, up to the TDQ would be a firm reservation of capacity and would not be subject to interruption, it is stated.

Applicant explains that the TDQ would be the maximum daily volume of natural gas that it is obligated to receive and transport for Shipper at the receipt point(s) and delivery point(s), respectively, set forth in the TF-1 transportation service agreement, which would be required to be executed between Applicant and Shipper for service under Rate Schedule TF-1.

It is claimed that in order to plan and accommodate system supply sales requirements a minimum one-year term would be required for all service agreements executed under Rate Schedule TF-1.

Applicant states that upon requesting an initial TDQ under Rate Schedule TF-1 the Shipper would have the right to request a concurrent reduction in its effective firm entitlement, as defined in Shipper's respective rate schedule, by an amount not exceeding the requested TDQ. It is further stated the TDQ may be increased or decreased as long as there is a corresponding increase or decrease in the sales firm entitlement as defined in Shipper's respective rate schedule. It is stated that the Shipper would be required to execute the necessary service agreements reflecting such changes. Applicant states it would require Shipper to nominate, on or before May 1 of each year, commencing May 1, 1986, any changes in the TDQ and corresponding changes to their firm entitlement demand, and that Applicant would notify Shipper by September 1 of each year as to the extent such nomination can be accommodated, based upon Applicant's ability to provide the service without detriment or disadvantage to its existing sales customer and subject to its operating and system requirements. Applicant states that in its sole judgment it may waive the nomination period if conditions warrant such action.

Applicant states this nomination procedure would not preclude Shipper from making any requested additions or deletions to the receipt point(s) or delivery point(s) of the transportation service agreement.

Applicant proposes to charge a one-part commodity rate for service rendered under this rate schedule. The proposed commodity rate per Mcf at 1000 Btu for transportation services would be determined by the area applicable to the delivery point(s) where gas is being transported by Applicant to Shipper, it is claimed. Applicant also proposes to charge Shipper the currently effective GRI Surcharge. Shipper would also be charged a commodity rate of 21.56 cents per Mcf at 1000 Btu for fuel and unaccounted-for losses. It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exceed 110 percent or is less than 90 percent of the nominated quantity as established in Section 7 of Rate Schedule TF-1, Applicant would have the right to charge Shipper $5.00 per Mcf for deliveries of natural gas which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering gas to Applicant's system for subsequent transportation by Applicant

and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with facilities constructed and paid for by Applicant to enable Applicant to receive or deliver volumes of gas. It is claimed that such cost of service would be based upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated under this rate schedule would be considered the first volumes delivered to Shipper each day.

It is asserted no change in the total contract quantity of Applicant's existing volume 2 customers would result from the implementation of this rate schedule.

Applicant states that its proposed Rate Schedule IT–1, to be included in Applicant's Volume 2 Tariff, would be a best efforts interruptible transporation service available to any Shipper who has executed a transportation service agreement for the transportation of natural gas under Rate Schedule TF–1 of Applicant's Volume 2 Tariff. Applicant states that Rate Schedule IT–1 would be applicable to the transportation of natural gas in excess of Shipper's TDQ under Rate Schedule TF–1 of Applicant's Volume 2 Tariff. It is asserted that service rendered under this rate schedule would be an interruptible service subject to interruption as deemed necessary in Applicant's sole judgment.

It is stated that for all volumes of natural gas transported under this rate schedule Shipper would pay a commodity rate per Mcf as determined by the area applicable to the delivery point(s) where gas would be delivered to Shipper. In addition Applicant proposes to charge Shipper the currently effective GRI Surcharge. It is further stated that Applicant would charge Shipper a commodity rate per Mcf for fuel and unaccounted for losses at a rate equivalent to the fuel rate charged under proposed Rate Schedule TF–1 of Applicant's Volume 2 Tariff.

Applicant explains that for billing purposes all volumes nominated under this rate schedule would be considered second volumes delivered each day to Shipper.

It is claimed that the transportation service pursuant to the proposed Rate Schedule TF–1 of Applicant's Volume 1 or Volume 2 Tariff would be a firm service equal in priority to the sale of gas under Applicant's firm sales rate schedules contained in Applicant's Volume 1 and Volume 2 Tariffs. It is stated that firm sales and transportation services would have priority over interruptible sales and interruptible transportation services when the request for all such services exceeds, on any day, the available transmission capacity. It is averred that in the event curtailment of firm services is required due to capacity constraints on Applicant's system, such curtailment would be performed in accordance with the priorities set forth in Section 9 of Applicant's Volume 1 Tariff or the respective customer sales rate schedule contained in Applicant's Volume 2 Tariff.

Applicant asserts that the Shipper must be aware that the potential exists for isolated system bottlenecks if a number of customers elect to use the same or closely locate receipt points for their transportation service, and that such potential would be discussed with each customer upon implementation of service. Applicant further asserts that it retains the right to reject certain receipt points if capacity does not exist or alternatively to selectively curtail certain customers pursuant to provisions of their transportation service agreement.

Applicant proposes to retain all transportation revenues received under these rate schedules to assist it in recovering the costs underlying Applicant's currently effective sales rates. It is stated that the volumes to be transported under these rate schedules would be volumes that Applicant would otherwise sell under currently effective rate schedules. It is claimed that the proposed rates and revenues treatment would ensure that Shippers continue to bear their fair share of Applicant's system fixed costs and would prevent undue cost shifting. Applicant claims that revenues received for fuel and unaccounted for losses would be credited to its Account No. 191—Unrecovered Gas Purchase Costs.

It is claimed that in order to achieve the maximum flexibility under Applicant's proposal to meet the needs of its Volume 1 Tariff customers, Applicant requests blanket certificate authority to realign the firm entitlement of its existing customers from Rate Schedule(s) CD–1 or DCO–1 to Rate Schedule TF–1, and vice versa, as long as their total firm entitlement under existing service agreements does not change. Applicant proposes to advise the Commission of such transactions by filing the necessary tariff sheets reflecting such changes. Such blanket certificate authority also is requested for Applicant's Volume 2 Tariff customers who realign firm entitlement demand between sales and transportation.

It is asserted that Applicant, its customers, and the Commission would benefit from the efficiencies resulting from the reduction in individual certificate filings by authorizing such blanket authority, and that the ultimate consumer would benefit from the shorter time required for the commencement of the firm transportation service.

Applicant submits that the proposed Rate Schedules TF–1 and IT–1 are in the public convenience and necessity since the proposed rate schedules (1) provide open access to transportation services; (2) proivde alternatives and maximize supply flexibility for Applicant's existing customers; (3) ensure that consumers are provided natural gas service at the lowest reasonable rates consistent with reliable long-term service; and (4) minimize rate consequences to nonparticipating customers.

Comment date: August 1, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP85–638–000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–638–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of North American Refractories Company, an Allied Company (NAR), under the certificate issued in Docket No. DP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle requests authorization to transport natural gas on behalf of NAR, pursuant to a transportation agreement dated March 25, 1985, between NAR and Panhandle. It is explained that the agreement provides for Panhandle to receive up to 400 Mcf per day of natural gas on an interruptible basis at an existing point of interconnection between Panhandle and Anadarko Land and Exploration Co. (Anadarko) in Custer County, Oklahoma. Panhandle would then transport and redeliver such gas, less a four percent reduction for fuel, to an existing point of interconnection between Panhandle and NAR in Audrain County, Missouri, for use at NAR's facilities in Farber, Missouri. It is stated that NAR is an existing direct industrial sales customer of Panhandle.

NAR would pay Panhandle the rate under Panhandle's Rate Schedule OST.

The currently effective rate is $.8524 per MMBtu.

This agreement, it is stated, would be effective from March 25, 1985, for a primary term of six months, and successive terms of one month each, until the earlier of eighteen months from the date thereof, or termination of authorizations for service thereunder pursuant to Subpart F of 18 CFR Part 157.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP85-641-000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle Eastern), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-641-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of RCA Corporation (RCA), an industrial customer, under the certificate issued in Docket No. CP83-83 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle Eastern proposes to transport up to 1,300 Mcf of natural gas per day on an interruptible basis for RCA for 18 months should the Commission extend the end-user transportation program beyond June 30, 1985. Panhandle Eastern indicates that the gas to be transported would be purchased from Phillips Petroleum Company (Phillips) and that it would receive said volumes at their existing connections in Kingfisher and Woodward Counties, Oklahoma. Panhandle Eastern states it would transport and deliver said volumes, less a 4 percent retainer, to Citizens Gas and Coke Utility for RCA's account and that Citizens Gas & Coke would ultimately deliver said volumes to RCA for its use as boiler fuel in its Marion County, Indiana facility. Panhandle Eastern further states that Rebel Energy is acting as agent between Phillips and itself for a monthly fee of 3.0 cents per Mcf. It is explained that these volumes represent gas Panhandle Eastern released under section 102 of the Natural Gas Policy Act of 1978. Panhandle Eastern states that it commenced this transportation service on April 26, 1985 under the automatic authorization of § 157.209 of the Regulations and that existing facilities were utilized.

Panhandle Eastern indicates that it would charge RCA 3.28 cents for each Mcf of natural gas delivered to the Kingfisher plant and 3.25 cents for each Mcf delivered to the Cimarron plant, which is in accordance with its Rate Schedule On-System Transportation Service (OST). In addition, RCA would pay a Gas Research Institute surcharge, if applicable, it is stated.

Panhandle Eastern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle Eastern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Panhandle Eastern Pipe Line Company

[Docket No. CP85-642-000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle Eastern), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-642-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Quemetco, Inc. (Quemetco), under the certificate issued in Docket No. CP83-83 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle Eastern proposes to transport up to 1,000 Mcf of natural gas per day on an interruptible basis for Quemetco for 18 months should the Commission extend the end-user transportation program beyond June 30, 1985. Panhandle Eastern indicates that the gas to be transported would be purchased from Phillips Petroleum Company (Phillips) and that it would receive said volumes at their existing interconnections with Phillips in Kingfisher and Woodward Counties, Oklahoma. Panhandle Eastern states it would transport and deliver said volumes, less a 4 percent retainer, to Citizens Gas and Coke Utility for Quemetco's account and that Citizens Gas & Coke would ultimately deliver said volumes to Quemetco for its use in its reverbatory furnace, rotary dryers, and lead-meltinga kettle, in its Marion County, Indiana facility. Panhandle Eastern further states that Rebel Energy is acting as agent between Phillips and itself for a monthly fee of 3.0 cents per Mcf. It is explained that these volumes represent gas Panhandle Eastern released under section 102 of the Natural Gas Policy Act of 1978. Panhandle Eastern states that it commenced this transportation service on May 2, 1985 under the automatic authorization of § 157.209 of the Regulations and that existing facilities were utilized.

Panhandle Eastern indicates that it would charge Quemetco 3.28 cents for each Mcf of natural gas delivered to the Kingfisher plant and 3.25 cents for each Mcf delivered to the Cimarron plant, which is in accordance with its Rate Schedule On-System Transportation Service (OST). In addition, Quemetco would pay a Gas Research Institute surcharge, if applicable, it is stated.

Panhandle Eastern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle Eastern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) 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 filing 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17355 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-29-000]

Colorado Interstate Gas Company v. Koch Industries, Inc., Koch Hydrocarbon Company, Koch Exploration Company; Complaint Filed

July 15, 1985.

On April 29, 1985, Colorado Interstate Gas Company (CIG) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. CIG requests that the Production-Related Costs Board (Board) determine whether production-related costs have been charged to CIG by Koch Hydrocarbon Company and Koch Exploration Company, both wholly-owned subsidiaries of Koch Industries, Inc. (collectively referred to as "Koch"), contrary to 18 CFR 271.1104.

CIG states that it purchases natural gas produced from thirty-nine wells sold under two contracts with Koch at the tailgate of Koch's liquids extraction plant. CIG contends that Koch charged gathering allowances in excess of those permitted by § 271.1104 for both section 105 and 108 wells. CIG notes that they are currently litigating the issue of whether certain wells are properly priced under section 105. They state that their complaint is directed solely to the validity of Koch's claim for production-related costs, assuming the gas is correctly priced as Koch claims, but that CIG does not admit or concede by the filing of this complaint that such price was proper.

CIG further states that Koch is claiming gathering allowances for gas produced from seventeen additional wells which CIG believes are not committed to the two contracts. The issue of whether gas sales from these wells are committed to contracts is the subject of current litigation. CIG states that if the gas is not committed, then Koch is in violation of § 271.1104 because there is no expressed contractual authorization for collection of production-related costs. CIG also states that if it is determined that gas sales from eight of these wells are committed to a contract and properly priced under section 105, then Koch is collecting a gathering charge in excess of that permitted by § 271.1104.

CIG requests that the Board determine (1) the allowable gathering charges for all gas sold by Koch under Section 105, (2) the allowable gathering charge for all gas sold by Koch under Section 108, (3) the propriety of a gathering charge for gas from any well not covered by the terms of either contract, and (4) such other relief as the Board may find just and proper.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Koch must file an answer to CIG's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Koch shall file its answer with the Commission on or before August 14, 1985.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene 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 and 385.214). All such protests or motions should be filed on or before August 14, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17358 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CS69-6, et al. and CI77-145-003 et al.]

FMP Operating Company (Successor to McMoRan Exploration Co., McMoRan-Freeport Oil Company, McMoRan Offshore Production Co. and McMoRan Offshore Exploration Co.; Mergers and Name Change

July 15, 1985.

Take notice that on June 28, 1985, FMP Operating Company of P.O. Box 6800, Metairie, Louisiana 70009 filed a Notice of Mergers and Name Change.

McMoRan Exploration Co., McMoRan-Freeport Oil Company, McMoRan Offshore Production Co., and McMoRan Offshore Exploration Co. were merged into McMoRan Offshore Exploration Co. on April 4, 1985.

McMoRan Oil & Gas Co. was merged into McMoRan Offshore Exploration Co. on April 9, 1985, and the name of the Corporation was changed to McMoRan Oil & Gas Co.

Thereafter, by general conveyance, McMoRan Oil & Gas Co., the survivor and successor corporation, assigned its interest in the gas production reserves subject to the Rate Schedules and Certificates listed in Exhibit "A" to FMP Operating Company.

The certificates and FERC Gas Rate Schedules of FMP Operating Company, for which amendment to reflect the name change is requested, are listed in the attached Appendix "A".

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 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, 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 petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "A"

Field	Rate schedule	Schedule date	Docket No.	Purchaser
Formerly McMoRan-Freeport Oil Company				
Production commenced prior to Freeport becoming Large Producer.		01/16/79	CS 69-6	Small producer exemption.
VE 22	1	01/27/77	CI 77-145-003	TGPL.
VE 22	2	01/27/77	CI 77-148	Florida Gas.
Erick	3	05/23/77	CI 77-192	MRT.
E.C. 263	4	06/27/79	CI 79-245	TGPL.
VE 25	5	06/27/79	CI 79-311	TGPL.
VE 310	6	05/05/80	CI 80-235	TGPL.
W.C. 65	7	02/11/81	CI 81-086	TGPL.
W.C. 65	8	02/11/81	CI 81-086	Florida Gas.
W.D. 34	9	06/05/81	CI 81-275	TGPL.
H.I. 492	10	06/05/81	CI 81-276	TGPL.
Brown Bassett	11	09/17/81	CI 81-365	El Paso.
E.I. 10	12	05/14/82	CI 82-205	TGPL.
E.C. 336	13	09/29/82	CI 82-407	TX Eastern.
Mat. I 527/555	14	12/07/82	CI 83-010	Florida Gas.
VE 217, 218, 225, 226	15	01/11/83	CI 83-42-000	Tennessee Gas.
Formerly McMoRan Offshore Production Co.				
Production commenced prior to 4/7/81		7/18/78	CS 78-233	Small producer exemption.
H.I. 471	1	01/19/82	CI 82-42-001	Columbia Gas.
H.I. 446	2	01/12/82	CI 82-21	TGPL.
H.I. 289/290	3	05/24/82	CI 82-229	TX Eastern.
Formerly McMoRan Offshore Exploration Co.				
Production commenced prior to 4/7/81		7/18/78	CS 78-233	Small producer exemption.
H.I. 447/448	1	06/05/81	CI 81-317	TGPL.
W.C. 464	2	11/27/81	CI 81-494	TX Eastern.
Mat. I 527/555	4	12/07/82	CI 83-011	Florida Gas.
VE 217, 218, 225, 226	5	01/11/83	CI 83-43-000	Tennessee Gas.
VE 146	6	11/18/83	CI 83-448	TX Eastern.
Mat. I. 700	(1)		CI 85-181-000	TGPL.
Formerly McMoRan Exploration Co.				
Production commenced prior to 4/7/81		10/12/71	CS 71-331	Small producer exemption.
New Mexico production commenced prior to 4/7/81		08/02/76	CS 74-29	Small producer exemption.
Shell I. Pass	3	08/26/82	CI 82-329-000	Trunkline.

[1] Filed for 2/1/85.

[FR Doc. 85-17359 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-17447-001 et al.]

Phillips Oil Co., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

July 17, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Policy 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 July 31 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, 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 petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[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 [2]	Pressure base
G-17447-001 and CI67-1645-000, D, June 28, 1985.	Phillips Oil Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 33, Offshore, Louisiana.	(1)	
CI85-528-000 (CI71-885-000), B, June 28, 1985.	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Tennessee Gas Pipeline Company, West Parc Perdue Field, Vermilion Parish, Louisiana.	(2)	
CI85-531-000 (G-15596), B, July 2, 1985.	Phillips Petroleum Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Transcontinental Gas Pipe Line Corporation, Bear Field, Beauregard Parish, Louisiana.	(3)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI85-532-000 (CI75-253), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Crosby Field, Lea County, New Mexico.	(4)	
CI85-533-000 (CI77-314), B, July 1, 1985.	Unicon Producing Company, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Sec. 31-T29N-R6W, Dakota Field, Rio Arriba County, New Mexico.	(5)	
CI85-534-000 (CI72-288), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation.	Northwest Pipeline Corporation, Cisco Dome Field, Grand County, Utah.	(6)	
CI85-535-000 (C178-398), B, July 1, 1985.	Unicon Producing Company	Transcontinental Gas Pipe Line Corporation, Henry Field, McMullen County, Texas.	(7)	
CI85-536-000 (CI67-1483), B, July 1, 1985.	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	Southern Natural Gas Company, Section 28, Dome Field, St. Martin Parish, Louisiana.	(8)	
CI85-537-000 (G-17742), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	(9)	
CI85-538-000 (I76-761), B, July 1, 1985.	do	Columbia Gas Transmission Company, West Cameron Area Block 544, Offshore Louisiana.	(10)	
CI85-539-000, B, July 1, 1985	Philip Lemon Agent, Rt. 1, Cairo, W. Va. 26337	Consolidated Gas Transmission Corporation, Ritchie County, W. Va.	(11)	
CI85-540-000, B, July 1, 1985	Delta Drilling, 200 Fleet Street—Suite 4005, Pittsburgh, Pa. 15220.	Consolidated Gas Transmission Corporation, Clearfield County, Pennsylvania.	(12)	
CI85-541-000, B, July 1, 1985	do	do	(13)	
CI85-542-000, B, July 1, 1985	WEVA Oil Corp., 608 Main Street, Hingham, Mass. 02043.	Consolidated Gas Transmission Corporation, Wirt County, W. Va.	(14)	
CI85-543-000, B, July 1, 1985	E. Davisson Hardman, Box 48A, St. James Drive, Clarksburg, W. Va. 26301.	Consolidated Gas Transmission Corporation, Kincheloe District, Lewis County, W. Va.	(14)	
CI85-544-000, B, July 1, 1985	Kanawha Drilling Co.—c/o Waco Oil & Gas Co., Inc., P.O. Box 1486, Parkersburg, W. Va. 26101.	Consolidated Gas Transmission Corporation, Acreage in Gilmer County, W. Va.	(14)	
CI85-545-000, B, July 1, 1985	Waco Oil & Gas Co., Inc., 1297 N. Lewis Street, Glenville, W. Va. 26351.	do	(14)	
CI85-546-000, B, July 1, 1985	Morris & Perrill, Box 4, Glenville, W. Va. 26351	do	(14)	
CI85-547-000, B, July 1, 1985	Waco Oil & Gas, 1297 N. Lewis Street, Glenville, W. Va. 26351.	do	(14)	
CI85-548-000, B, July 1, 1985	Meadows Oil Co.—Inields Long Star Rte. Box 4, Harrisville, W. Va. 26362.	Consolidated Gas Transmission Corporation, Murphy District, Ritchie County, W. Va.	(15)	
CI85-549-000, B, July 1, 1985	Energy Unlimited, Inc., J. E. Olds and Zalem Olds, 426 Second Street, Marietta, Ohio 45750.	Consolidated Gas Transmission Corporation, Union District, Wood County, W. Va.	(15)	
CI85-550-000, B, July 1, 1985	Chemico, Inc., Agent Darrell Goe, RD #1, Albion, Pa. 16401.	Consolidated Gas Transmission Corporation, Erie County, Conneaut Township, Pennsylvania.	(15)	
CI85-551-000, B, July 1, 1985	do	do	(15)	
CI85-552-000, B, July 1, 1985	Frank Zickefoose, *et al*, RD #1, Box 47R, Burgettstown, Pa. 15021.	Hope Natural Gas, Union District, Ritchie County, W. Va.	(15)	
CI85-553-000, B, July 1, 1985	Doran & Associates, Inc., 200 Roesler Road, Pittsburgh, Pa. 15220.	Consolidated Gas Transmission Corporation, Harrison County, W. Va.	(17)	
CI85-554-000, B, July 1, 1985	Worldwide Oil & Gas Co., Box 310, Pineville, W. Va. 24874.	Consolidated Gas Transmission Corporation, Sandy River District, McDowell County, W. Va.	(18)	
CI85-555-000, B, July 1, 1985	James F. Scott, P.O. Box 112, Salem, W. Va. 26426	Consolidated Gas Transmission Corporation, Acreage in Harrison County, W. Va.	(17)	
CI85-556-000, B, July 1, 1985	do	do	(17)	
CI85-557-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Upshur County, W. Va.	(17)	
CI85-558-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Barbour County, W. Va.	(17)	
CI85-559-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Harrison County, W. Va.	(17)	
CI85-560-000, B, July 1, 1985	Joseph H. Hager, DBA Seneca-Upshur Petroleum, Inc., P.O. Drawer 2048, Buckhannon, W. Va. 26201.	Consolidated Gas Transmission Corporation, Acreage in Upshur County, W. Va.	(19)	
CI85-561-000, B, July 1, 1985	Alton Skinner DBA Chase Petroleum, Agent for Continental Reserves 1979-3, P.O. Drawer 369, Glenville, W. Va. 26351.	Consolidated Gas Transmission Corporation, Greenbrier District, Doddridge County, W. Va.	(17)	
CI85-562-000, B, July 1, 1985	WEVA Oil Corporation, 608 Main Street, Hingham, Mass. 02043.	Consolidated Gas Transmission Corporation, Spring District, Wirt County, W. Va.	(20)	
CI85-563-000, B, July 1, 1985	Carroll Resources, Inc., 5501 Elson Street S.E., Magnolia, Ohio 44643.	Consolidated Gas Transmission Corporation, Acreage in Braxton County, W. Va.	(15)	
CI85-564-000, B, July 1, 1985	Ramco Oil & Gas Corp., P.O. Box 2347, Hollywood, Fla. 33020.	Consolidated Gas Transmission Corporation, Acreage in Mingo County, W. Va.	(21)	
CI85-565-000, B, July 1, 1985	Warren Associates, Inc., 4424 Emerson Avenue, Parkersburg, W. Va. 26104.	Consolidated Gas Transmission Corporation, Acreage in Ritchie County, W. Va.	(17)	
CI85-566-000, B, July 1, 1985	Russell Ware, P.O. Box 11, Cox's Mill, W. Va. 26342.	Consolidated Gas Transmission Corporation, Troy District, Gilmer County, W. Va.	(22)	
CI85-567-000, B, July 1, 1985	Alamco, Inc., P.O. Box 1740, Clarksburg, W. Va. 26301.	Consolidated Gas Transmission Corporation, Southwest District, Doddridge County, W. Va.	(23)	
CI85-568-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Sardis District, Harrison County, W. Va.	(22)	
CI85-569-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Freemans Creek District, Lewis County, W. Va.	(22)	
CI85-570-000, B, July 1, 1985	Union Drilling, Inc., P.O. Box 40, Buchannon, W. Va. 26201.	Consolidated Gas Transmission Corporation, Warren District, Upshur County, W. Va.	(14)	
CI85-571-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(14)	
CI85-572-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Elk District, Barbour County, W. Va.	(14)	
CI85-573-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(14)	
CI85-574-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Union District, Upshur County, W. Va.	(14)	
CI85-575-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Eagle District, Harrison County, W. Va.	(14)	
CI85-576-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(14)	
CI85-577-000 (CI66-1346), B, July 1, 1985.	Unicon Producing Company, P.O. Box 2120, Houston, Texas 77252-2120.	Michigan Wisconsin Pipeline Company, Sec. 18-T22N-R6W, NE Cedardale Field, Major County, Oklahoma.	(24)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI85-578-000, B, July 8, 1985	Samson Resources Company (Succ. to Diamond Shamrock Exploration Company), Samson Plaza, Two West Second Street, Tulsa, Okla. 74103.	Arkansas Louisiana Gas Company, Arkoma Area, South Pocola and Pocola Fields, LeFlore County, Oklahoma.	(¹⁹)	14.73
CI85-579-000 (CI80-90), B, July 5, 1985.	Geo. Oil and Gas Company of Houston, P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Undesignated RMD Palmer Fields, San Juan County, New Mexico.	(²⁰)	
CI85-580-000 (G-5669), B, July 5, 1985.	Walter Kuhn Drilling Company, P.O. Box 3758, Wichita, Kansas 67201.	Northern Natural Gas Company, Harrison #1 Well, Sec. 31-T30S-R34W, Hugoton Gas Field, Haskell County, Kansas.	(²¹)	
CI85-581-000 (G-5016), B, July 5, 1985.	Shell Western E&P Inc., P.O. Box 4684, Houston, Texas 77210.	Phillips Petroleum Company, Hugonton Field, Sherman County, Texas.	(²²)	
CI85-582-000 (G-5015), B, July 5, 1985.	do	do	(²³)	
G-6654-000, D, July 11, 1985	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Texas Eastern Gas Transmission Corporation, Delhi, South Field, Franklin Parish, Louisiana.	(²⁴)	
CI68-200-002, D, July 8, 1985	do	Arkansas Louisiana Gas Company, Peno Field, Sequoyah County, Oklahoma.	(²⁵)	

[1] The wells connected to the Ship Shoal Block 33, "B" Platform have all ceased to produce. The #1 and #3 wells, OCS-G-0336 and OCS-G-0333, respectively, never produced gas in commercial quantities. The date of last production for #2 well, OCS-G-0334, was April 1979, and for the #4 well, OCS-G-0333, was November 1969.

[2] All production from leases committed to Tennessee Gas Pipe Line Company under the contract has ceased. Pursuant to the terms of the lease agreements, leases expired shortly after production ceased. Lease interests have passed to Lea Exploration, Inc. Chevron is therefore not able to produce further from these leases, or continue sales under the contract.

[3] All of the production related to the Bear Field, in Beauregard Parish, Louisiana has ceased. The gas purchaser Transcontinental Gas Pipe Line Corporation, in conjunction with the operator, Sun Exploration and Production Company, has requested that Phillips file this abandonment.

[4] Producing wells on the acreage dedicated to R.S. 122 were plugged and abandoned in 1975. El Paso disconnected the wells on 5-27-76.

[5] On 5-20-82 in Docket No. CI61-1265-002, *et al.*, Unicon Producing Company filed a request to be designated Successor-in-interest to Supron Energy Company in R.S. 35. The inclusion of this R.S. was erroneous. Unicon was never assigned Supron's interest in the leases covered by R.S. 35. These leases are owned by Southern Union Exploration Company.

[6] Union Texas' interest in the leases dedicated to R.S. 107 was assigned to NP Energy Corporation. Sales by UTP have not been made under this R.S. since December 1977.

[7] Leases dedicated to R.S. 38 were never conveyed to Unicon Producing Company. On 5-20-82 Unicon erroneously filed to be named Successor-in-interest to Supron Energy in Docket No. CI78-398, R.S. 38.

[8] Contract expired on 6-30-83. All wells dedicated thereto have been plugged and abandoned.

[9] Gas Purchase Contract was terminated on 4-1-81. There has been no production from the zones dedicated to R.S. 53 since 1971.

[10] Because no Natural Gas was produced and sold since September 1979, Union Texas' Lease OCS-G-2011 expired on 12-6-80. Therefore Union Texas will make no sales under the terms and provisions of the contract filed in Docket No. CI76-761, R.S. 134.

[11] Gas has depleted down to the extent that it isn't paying to maintain a meter.

[12] Well #1698 has been plugged.

[13] Well #1564 has been plugged.

[14] Low well production.

[15] Non-production.

[16] Low delivery.

[17] Uneconomical.

[18] Dry hole.

[19] Expenses exceed income.

[20] Well production has stopped.

[21] Well has not produced any gas since 1980.

[22] Low volume. Purchaser wants to remove meter.

[23] Unprofitable production.

[24] Unicon's interest in the leases dedicated to R.S. 20 was canceled effective 1-1-83. The primary term of the contract expired 5-24-82.

[25] Effective date of transfer of ownership: 10-1-84. Proposed effective date of assignment: 10-1-84. Applicant respectfully requests that a Certificate of Public Convenience and Necessity be issued authorizing it to render the service previously authorized in the certificate of public convenience and necessity issued to Diamond Shamrock Exploration Company, effective from and after 10-1-84.

[26] Sale of dedicated properties to Quinoco Petroleum Inc. on 1-1-84.

[27] Clifford Love is the owner of Sec. 31-T30S-R34W, including all minerals and all the mineral owners royalty for gas produced from the Harrison #1 Well. Mr. Love, on behalf of the tenant farmer, Archie Rooney, desire to purchase natural gas at the wellhead of the Harrison #1 Well in volumes for use as fuel for irrigation water pumps.

[28] All acreage has been assigned to Lyco Acquisition 1984 Limited Partnership.

[29] Partial Assignment and Bill of Sale executed on 3-28-85, effective 4-1-85 to Edel, Inc.

[30] Partial Assignment and Bill of Sale executed on 6-1-84, effective 8-1-84 to Kaiser-Francis Oil Company.

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. 85-17360 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-34-000]

Sohio Alaska Petroleum Co.; Petition for Declaratory Order

Issued: July 17, 1985.

Take notice that on June 17, 1985, Sohio Alaska Petroleum Company (Sohio), pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, petitions the Commission to remove uncertainty as to the applicability of section 109 of the Natural Gas Policy Act to sales of natural gas to Sohio from other Prudhoe Bay Unit working interest owners.

Sohio states that it is one of several oil and gas producers operating on the North Slope of Alaska in the Prudhoe Bay Field, both the largest oil field and the largest gas field in North America. Sohio states that, operations at Prudhoe Bay are conducted in accordance with the Prudhoe Bay Unit Operating Agreement (PBUOA). Sohio alleges that under an exercised option contained in the PBOUA, Sohio and other major oil owners must purchase natural gas from the field's major gas owners to satisfy fuel requirements within the unit.

Pursuant to a November 1984 arbitration decision, the price Sohio must pay for natural gas was determined to be $3.04 per MMBtu. Sohio claims that payment of $3.04 per MMBtu in accordance with the arbitration decision would violate the maximum lawful price provisions of section 109 to the extent the wells involved do not qualify for NGPA section 103 or 103 pricing. As to deliveries made before January 1, 1985, Sohio states that payments at the $3.04 per MMBtu rate for gas from section 103(c) wells also would violate the NGPA.

Sohio therefore requests that the Commission issue an order declaring that the price of $3.04 per MMBtu (1) exceeds the applicable maximum lawful price provisions of section 109 to the extent the gas sold to Sohio has been and is produced from wells not qualifying for NGPA section 102 or 103 pricing and (2) exceeds the maximum lawful price provisions of NGPA section 102 for gas acquired by Sohio before January 1, 1985, from wells classified under NGPA section 103.

Within thirty days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party, you must file a petition to intervene. See Rules 214 or 211.[1]

Kenneth F. Plumb,

Secretary.

[FR DOC. 85-17361 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.214 or 385.211 (1984).

[Docket No. RP85-168-000

Transwestern Pipeline Co.; Request for Waiver

July 16, 1985.

Take notice that on June 28, 1985, Transwestern Pipeline Company (Transwestern) requested a partial waiver of section 4 of its Rate Schedule CDQ-1 and related tariff provisions to permit crediting of transportation revenues against the annual minimum commodity bill.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 July 22, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17362 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI82-296-001 et al.]

Zapata Exploration Co. (Successor to Pacific Petroleums, Inc.); Merger; Filing of Certificate

July 15, 1985.

Take notice that on July 2, 1985, Zapata Exploration Company of 1410 United Bank Tower, 400 West Fifteenth Street, Austin, Texas 78701 pursuant to § 154.92(d) of the Commission's Regulations, filed a certificate of the Secretary of State of the State of Delaware recognizing the merger of Pacific Petroleums, Inc., into Zapata Exploration Company and a copy of a certificate of ownership and merger, both effective October 1, 1984.

Zapata Exploration Company requests that it be authorized to continue to perform the service heretofore performed by its wholly-owned subsidiary, Pacific Petroleums, Inc., under Docket Nos. CI82-296-001 and CI82-299-000. Zapata Exploration Company also requests that Pacific Petroleums' Rate Schedule Nos. 1 and 2 be redesignated as Zapata Exploration Company rate schedules.

Any person desiring to be heard or to make any protest with reference to said application should on or before Julyl 29, 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, 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 petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17363 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRI 2867-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION: .

Office of Solid Waste and Emergency Response

• *Title:* Census of State and Territorial Non-Hazardous Waste Programs. (EPA #1248) (This is a one-time collection.)

Abstract: EPA is conducting a census of the Non-Hazardous Waste Programs (RCRA Subtitle-D) implemented by the States and Territories. Section 302 of the Hazardous and Solid Waste Amendments of 1984 requires EPA to determine if the current programs are adequate to protect human health and the environment.

Respondents: States and Territories.

Office of Pesticides and Toxic Substances

• *Title:* Request for Contractor Access to TSCA Confidential Business Information. (EPA #1250) (This is a new collection.)

Abstract: EPA must collect information from contractors to confirm clearance for their employees who need access to Toxic Substances Control Act (TSCA) confidential business information (CBI). Under terms of a Consent Order with Polaroid the Agency is required to revise its TSCA CBI Access Form for use by contractor/subcontractor personnel by June 1, 1985.

Respondents: EPA contractors with employees needing clearance to work with TSCA confidential business information.

Agency PRA Clearance Requests Completed by OMB

EPA No. 0619; Mobile Sources Emission Factor Survey, was approved 6/13/85 (OMB #2060-0078; expires 6/30/86).

EPA No. 0783; Application for Motor Vehicle Certification and Fuel Economy Labeling: Information Requirements (Revision), was approved 6/13/85 (OMB #2060-0104; expires 6/30/88).

EPA No. 0807; RCRA Closure and Post-Closure, was approved 6/12/85 (OMB #2000-0380; expires 9/30/85).

EPA No. 1049; Notification of Oil or Hazardous Substance Discharge, was approved 6/14/85 (OMB #2050-0046; expires 6/30/88).

EPA No. 1054; New Source Performance Standards for Petroleum Refineries, was approved 6/19/85 (OMB #2060-0022; expires 12/31/85).

EPA No. 1086; New Source Performance Standards for Onshore Natural Gas Processing Plants/Equipment Leaks for Volatile Organic Compounds, was approved 6/12/85 (OMB #2060-0120; expires 6/30/88).

EPA No. 1236; Information Requirements for National Emission

Standards for Hazardous Air Pollutants (NESHAPS)—Department of Energy, Nuclear Regulatory Commission Licensees, and Elemental Phosphorous Facilities which Emit Radionuclides, was approved 6/12/85 (OMB #2060-0117; expires 6/30/88).

EPA No. 1250; Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials, was approved 6/14/85 (OMB #2050-0045; expires 6/30/88).

EPA No. 1242; New Source Performance Standards—Information for Flare Requirements, was approved 6/13/85 (OMB #2060-0119; expires 6/30/88).

EPA No. 1243; Notification Requirements for Underground Storage Tanks Containing Regulated Substances, was approved 6/14/85 (OMB #2050-0049; expires 6/30/88).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation and Information Management Division, 401 M Street, SW., Washington, DC 20460

and

Nancy Baldwin (ICR $1248), or Carlos Tellez (ICR #1250), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: July 16, 1985.

Daniel J. Fiorino

Acting Director, Regulation and Information Management Division.

[FR Doc. 85-17207 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2867-8]

Chesapeake Bay Executive Council; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Environmental Protection Agency is establishing the Chesapeake Bay Executive Council as described in the Chesapeake Bay Agreement of December 9, 1983.

The Council will assess and oversee the implementation of coordinated plans to improve and protect the water quality and living resources of the Chesapeake estuarine system. The nine members are Cabinet designees of the Governors of the States of Pennyslvania, Virginia, and Maryland, the Mayor of the District of Columbia, and the EPA Regional Administrator, Region III.

It has been determined that establishment of this Council is in the public interest in connection with the performance of the Environmental Protection Agency's duties and responsibilities under the Clean Water Act of 1981, as amended.

For further information contact: Henry Zygmunt, Coordinator for Policy and Program Integration, Chesapeake Bay Program, at (301) 266-6873.

Dated: July 5, 1985.

A. James Barnes,

Deputy Administrator.

[FR Doc. 85-17209 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2867-5]

State Water Quality Standards; Availability of Updated Listing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice contains an updated listing of State water quality standards, dates of adoption by the State and dates of approval by the EPA of the standards or sections thereof pursuant to the Water Quality Standard Regulation (40 CFR Part 131, Subpart C § 131.21).

FOR FURTHER INFORMATION CONTACT: David K. Sabock, Chief, Standards Branch (WH-585), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: This listing of State water quality standards is an update of a listing that was noticed in the Federal Register on Friday, April 27, 1984 (49 FR 18177). The updated listing identifies the State regulatory documentation containing the State water quality standards and the dates of State adoption and EPA approval from April 1984 through May 1985. Not included in this Notice are: (1) The text of the water quality standards, (2) a description of the adoption action, or (3) any conditions (including disapprovals) that might have been attached to the approvals.

The text of a State's standards and copies of the approval letters can be obtained from the State's pollution control agency or the appropriate EPA Regional Office. Proprietary publications such as those of the Bureau of National Affairs also contain the text of State standards.

Dated: July 10, 1985.

Edwin Johnson,

Acting Assistant Administrator for Water.

Alaska

State water quality standards for the surface waters of the State of Alaska are those which are contained in the "Alaska Administrative Code", Register 47 at "Title 18, Environmental Conservation, Chapter 70, Water Quality Standards".

Adopted or amended by State: Jan. 20, 1984.

Approved by EPA: April 30, 1984.

Adopted or amended by State: Sept. 18, 1984.

Approved by EPA: Dec. 28, 1984.

Arizona

State water quality standards for the surface waters of the State of Arizona are those adopted by the Arizona Water Quality Control Council, contained in State regulations entitled "Water Quality Standards for Surface Waters in Arizona" (A.C.R.R. R9-21-214, Appendix A, Appendix B, R9-21-301 through R9-21-304) and Water Quality Standards for Salinity, Colorado River System.

Adopted or amended by State: Jan. 4, 1985.

Approved by EPA: (Not yet approved.)

Arkansas

State water quality standards for the surface waters of the State of Arkansas are those which are contained in the document entitled "Arkansas Water Quality Standards Regulation No. 2".

Adopted or amended by State: Nov. 28, 1984.

Approved by EPA: Jan. 28, 1984.

American Samoa

State water quality standards for the surface waters of the territory of American Samoa are those contained in the document entitled "Water Quality Standards for American Samoa", 1981.

Adopted or amended by State: July 19, 1985.

Approved by EPA: Oct. 22, 1984.

California

California State Water Quality Standards pertaining to the following amendment and approval dates are those contained in the documents entitled:

Resolution Number 84-11—Consideration of an Amendment to the Water Quality Control Plan for the Central Coastal Basin (Revision and Amendment of Table 2-1, "Existing and Anticipated Uses of Inland Surface Waters").

Adopted or amended by State: Jan. 19, 1984.

Approved by EPA: Apr. 17, 1984.

Resolution 83–17—Re-affirming Central Coastal Basin Standards.

Adopted or amended by State: Oct. 14, 1983.

Approved by EPA: Aug. 2, 1984.

Resolution 98–93—Reconsideration of an Amendment to the Water Quality Control Plan for the West Fork Carson River Hydrological Unit and Indian Creek Watershed, Alpine Country (Water Quality Standards of the Lahontan Region, North Lahontan Basin).

Adopted or amended by State: Dec. 15, 1983.

Approved by EPA: Apr. 19, 1984.

Resolution 84–046—Re-affirming Central Valley Basin Standards.

Adopted or amended by State: May 18, 1984.

Approved by EPA: Sept. 22, 1984.

Resolution 83–82—Consideration of Water Quality Standards for the Santa Ana River Region, Chapters 2 and 3 of the "Water Quality Control Plan, Santa Ana Region Basin (8)".

Adopted or amended by State: Oct. 20, 1983.

Approved by EPA: Apr. 28, 1984.

Resolution 84–55—Amending Central Valley Basin standards for the Sacramento River August 16, 1984.

Amendments to the Water Quality Control Plan for the Ocean Waters of California. (Res. 83–87)

Adopted or amended by State: Nov. 17, 1983.

Approved by EPA: May 2, 1984.

Resolution 85–12 amending Colorado River Basin standards.

Adopted or amended by State: Feb. 21, 1985.

Approved by EPA: (Not yet approved).

Resolution 84–5 re-affirming Los Angeles Basin standards

Adopted or amended by State: Sept. 13, 1984.

Approved by EPA: Oct. 22, 1984.

Resolution 85–10 amending Colorado River salinity standards by adopting "Proposed Report on the 1984 Review, Water Quality Standards for Salinity, Colorado River System". Colorada River Basin Salintiy Control Forum May 1, 1984, and "Supplemental River System", Colorado River Basin Salinity Control Forum July 1984.

Adopted or amended by State: Feb. 21, 1985.

Approved by EPA: (Not yet approved).

Resolution 85–4 re-affirming Sacramento-San Joaquin Delta standards for salinity control.

Adopted or amended by State: Jan. 17, 1985.

Approved by EPA: (Not yet approved).

Resolution 83–90 Resolution 83–90—Consideration of an amendment to the Water Quality Control Plan for the South Lahontan Basin to incorporate water quality objectives for the lower Mojave River Basin, and San Bernardino County.

Adopted or amended by State: Dec. 15, 1983.

Approved by EPA: May 30, 1984.

Colorado

State water quality standards for the surface waters of the State of Colorado are contained in the document entitled "Water Quality Standards and Stream Classification" and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and "Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975".

Adopted or amended by State: Aug. 22, 1984.

Approved by EPA: (Not yet approved).

Connecticut

State water quality standards for the surface waters of the State of Connecticut are those adopted by the Connecticut Department of Environmental Protection which are contained in the document entitled "Water Quality Criteria".

Adopted or amended by State: Apr. 17, 1985.

Approved by EPA: Apr. 25, 1985.

Florida

State water quality standards for the surface waters of the State of Florida are those contained in Chapter 17–3, "Water Quality Standards", and Chapter 17–4, "Permits", of the Florida Administrative Code.

Adopted or amended by State: Feb. 17, 1984.

Approved by EPA: Mar. 16, 1984, Mar. 18, 1985.

Georgia

State water quality standards for the surface waters of the State of Georgia are those contained in the document entitled "Water-Use Classifications, Trout Stream Designations and Water Quality Standards for the Surface Waters of the State of Georgia".

Adopted or amended by State: Feb. 27, 1985.

Approved by EPA: (Not yet approved).

Territory of Guam

State water quality standards for the surface waters of the Territory of Guam are those contained in the document entitled "Water Quality Standards for the Territory of Guam, 1984".

Adopted or amended by State: Feb. 24, 1984.

Approved by EPA: July 24, 1984.

Idaho

State water quality standards for the surface waters of the State of Idaho are contained in the document entitled "Water Quality Standards and Wastewater Treatment Requirements" as amended.

Adopted or approved by State: Dec. 5, 1984.

Approved by EPA: Mar. 4, 1985.

Indiana

State water quality standards for the surface waters of the State of Indiana are those which are contained in the documents recodified as:

(1) "330 1AC 1–1 Water Quality Standards for waters of Indiana", effective August 21, 1973;

(2) "330 1AC 2–1, Water Quality Standards for Lake Michigan and Contiguous Harbor Areas", effective February 11, 1972;

(3) "330 1AC 2–2, Water Quality Standards for the Grand Calumet River and the Indiana Harbor Ship Canal", effective August 21, 1973;

(4) "330 1AC 2–3, Water Quality Standards for Wolf Lake", effective August 21, 1973;

(5) "330 1AC 2–4, Water Quality Standards for Natural Spawning Areas, Rearing or Imprinting Areas and Migration Routes of Salamoid Fishes", effective February 11, 1972.

Adopted or approved by State: Mar. 2, 1984.

Adopted or approved by State: Mar. 2, 1984. Approved by EPA: Nov. 1, 1984.

Kansas

State water quality standards for the surface waters of the State of Kansas are those regulations contained in the document entitled "Kansas Administrative Regulations, 28–16–28, Water Quality Criteria for Interstate and Intrastate Waters of Kansas" and "Emergency Regulation 28–16–28(a) Water Quality Criteria for Interstate and Intrastate Waters of Kansas". State adoption and Federal approval dates are:

Adopted or amended by State: Dec. 2, 1982.

Approved by EPA: Sept. 6, 1984.

Kentucky

State water quality standards for the surface waters of the Commonwealth of Kentucky are contained in the documents entitled:

(1) 401KAR 5:026—Classification of waters.

(2) 401KAR 5:029—General Provisions.

(3) 401KAR 5:031—Surface waters standards.

Adopted or amended by State: Nov. 13, 1984.

Approved by EPA: Dec. 19, 1984.

Louisiana

State water quality standards for the surface waters of the State of Louisiana are contained in the document entitled "State of Louisiana Water Quality Criteria, Louisiana Stream Control Commission, 1973".

Adopted or amended by State: Nov. 13, 1984.

Approved by EPA: Jan. 11, 1985.

Maine

State water quality standards for the surface waters of the State of Maine are contained in the documents entitled:

(1) "Revised statutes of 1964, Title 38, Sections 363–364, 368–369, and 370–371, as amended; and

(2) "Department of Environmental Protection, Bureau of Water Quality Control, Regulations, 480.1–480.9".

Adopted or amended by State: Dec. 27, 1984.

Approved by EPA: Feb. 20, 1985.

Maryland

State water quality standards for the surface waters of the State of Maryland are contained in the document entitled "Maryland Receiving Water Quality Standards, Maryland Water Pollution Control Regulations 08.05.04.01, 08.05.04.02m, 08.05.04.03, 08.05.04.09, and 08.05.04.11".

Adopted or amended by State: Dec. 3, 1984.

Approved by EPA: May 12, 1985.

Massachusetts

State water quality standards for the surface waters of the Commonwealth of the State of Massachusetts are contained in the document entitled "Massachusetts Water Quality Standards".

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Jan. 28, 1985.

Michigan

State water quality standards for the navigable waters of the State of Michigan are contained in the document entitled "General Rules of the Michigan Water Resources Commission, Part 4, Water Quality Standards".

R323.1041, R323.1043, R323.1044, R323.1050, R323.1051, R323.1053, R323.1055, R323.1057, R323.1058, R323.1060, R323.1062, R323.1064, R323.1065, R323.1069, R323.1070, R323.1072, R323.1073, R323.1074, R323.1075, R323.1080, R323.1082, R323.1090, R323.1091, R323.1092, R323.1096, R323.1097, R323.1098, R323.1100, R323.1105, R323.1110, R323.1115, R323.1116, together with Appendices A and B.

Adopted or amended by State: Jan 18, 1985.

Approved by EPA: Mar. 14, 1985.

Minnesota

State water quality standards for the surface waters of the State of Minnesota are contained in the documents entitled "Minnesota Water Quality Standards—6MCAR 4.8014, 8015, 8024, 8025; Recodified and amended through June 29, 1981.

Adopted or amended by State: Aug. 28, 1984.

Approved by EPA: Mar. 1985.

Mississippi

State water quality standards for the surface waters of the State of Mississippi are those contained in the document entitled "State of Mississippi Water Quality Criteria for Intrastate, Interstate and Coastal Waters".

Adopted or amended by State: Apr. 10, 1984.

Approved by EPA: May 18, 1984.

Missouri

State water quality standards for the surface waters of the State of Missouri are contained in MSCR, Title 10, Clean Water Commission Chapter 7—Water Quality. State adoption and Federal approval dates are:

Adopted or amended by State: Dec. 13, 1984.

Approved by EPA: Jan. 17, 1985.

Montana

State water quality standards for the surface waters of Montana are contained in the document entitled "Montana Surface Water Quality Standards".

Adopted or amended by State: Nov. 16, 1984.

Approved by EPA: Mar. 20, 1985.

Nevada

State water quality standards for the waters of the State of Nevada are contained in the document entitled "Water Pollution Control Regulations, Commission of Environmental Protection", November 14, 1972, as amended, and 1984 Review, Water Quality Standards for Salinity, Colorado River System," Colorado River Report on the 1984 Review, Water Quality Standards for Salinity, Colorado River System," Colorado River Basin Salinity Control Forum, July 1984.

Adopted or amended by State: June 29, 1984.

Approved by EPA: Mar. 8, 1985.

New Hampshire

State water quality standards for the waters of the State of New Hampshire are contained in the document entitled "New Hampshire Water Quality Standards".

Adopted or amended by State: May 15, 1984.

Approved by EPA: Dec. 19, 1984.

New Mexico

State water quality standards for the surface waters of the State of New Mexico are contained in the documents entitled "New Mexico Water Quality Standards, August 1973", as amended. Water Quality Standards for Intrastate and Interstate Streams in New Mexico adopted February 8, 1977 and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity Control Colorado River System, June 1975", and "Supplement Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 26, 1975.

Adopted or amended by State: Jan. 8, 1985.

Approved by EPA: Mar. 28, 1985.

North Carolina

State water quality standards for the surface waters of the State of North Carolina are contained in the documents entitled "Classifications and Water Quality Standards Applicable to the Surface Waters of North Carolina".

Adopted or amended by State: Apr. 12, 1984.

Approved by EPA: Sept. 17, 1984.

North Dakota

State water quality standards for the surface waters of the State of North Dakota are contained in the document entitled "Standards of Surface Water Quality, State of North Dakota" (R.61-28-05.2, X through VIII).

Adopted or amended by State: Jan. 16, 1985.

Approved by EPA: (Not yet approved).

Ohio

State water quality standards for the surface waters of the State of Ohio are contained in the document entitled,

"Ohio Water Quality Standards, Ohio regulations 3745–1 through 3745–1–14."

Adopted or amended by State: Jan. 4, 1985.

Approved by EPA: (Not yet aproved).

Pennsylvania

State water quality standards for the surface water of the State of Pennsylvania are contained in the documents entitled:

(1) "Title 25, Part I, Subpart C, Article II, Chapter 93—Water Quality Criteria, and

(2) Title 25, Part I, Subpart C, Article II, Chapter 95—Water paragraph 95.1".

Adopted or amended by State: Dec. 18, 1984.

Approved by EPA: May 14, 1985.

Commonwealth of Puerto Rico

State water quality standards for the surface waters of the Commonwealth of Puerto Rico are contained in the documents entitled:

(1) "Water Quality Standards Regulations, December 1973," Commonwealth of Puerto Rico, Office of the Governor, Environmental Quality Board, January 4, 1974, as amended on May 1, 1974; and

(2) "Amendments to Certain Sections of WQS Regulation", October 1976, amended version "Commonwealth of Puerto Rico, Office of the Governor, Environmental Quality Board, November 12, 1976".

Adopted or amended by State: Mar. 2, 1983.

Approved by EPA: March 1984.

Rhode Island

State water quality standards for the surface waters for the State of Rhode Island are contained in the documents entitled "Rhode Island Water Quality Regulations for Water Pollution Control".

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Jan. 31, 1985.

South Carolina

State water quality standards for the surface waters of the State of South Carolina are contained in the documents entitled "Water Classification—Standards System for the State of South Carolina".

Adopted or amended by State: July 27, 1984.

Approved by EPA: Sept. 28, 1984.

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Feb. 27, 1985.

South Dakota

State water quality standards for the surface waters of the State of South Dakota are contained in the document entitled, "South Dakota Surface Water Quality Standards Regulations".

Adopted or approved by State: Apr. 26, 1984.

Approved by EPA: (Not yet approved).

Tennessee

State water quality standards for the surface waters of the State of Tennessee are those contained in Chapters 1200–4–3, "General Water Quality Criteria and 1200–4–4, "Stream Use Classifications for Interstate and Intrastate Streams", of the document entitled, "Rules of Tennessee Department of Health and Environment, Bureau of Environment, Division of Water Management".

Adopted or amended by State: Oct. 22, 1982.

Approved by EPA: Feb. 3, 1984.

Texas

State water quality standards for the surface waters of the State of Texas are contained in the document entitled "Texas Water Quality Standards, February 1976".

Adopted or amended by State: Dec. 28, 1984.

Approved by EPA: Feb. 28, 1985.

Utah

State water quality standards for the surface waters of the State of Utah are contained in the document entitled "Code of Waste Disposal Regulations, Part II Standards of Quality for Waters of the State", and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 25, 1975.

Adopted or amended by State: Nov. 14, 1984.

Approved by EPA: (Not yet approved).

Virginia

State water quality standards for the surface waters of the State of Virginia are contained in the document entitled "Commonwealth of Virginia Water Quality Standards".

Adopted or amended by State: Sept. 22, 1983, Oct. 28, 1984.

Approval by EPA: March 22, 1985.

Vermont

State water quality standards for the surface waters of the State of Vermont are contained in the document entitled "Regulations Governing Water Classification and Control of Quality".

Adopted or amended by State: Jan. 17, 1985.

Approved by EPA: Feb. 19, 1985.

Washington

State water quality standards for the surface waters of the State of Washington are contained in the document entitled "State of Washington Department of Ecology, Water Quality Standards, June 19, 1973".

Adopted or amended by State: May 25, 1982.

Approved by EPA: Oct. 26, 1984.

Wyoming

State water quality standards for the surface waters of the State of Wyoming are contained in the documents entitled "Water Quality Standards, Stream Classification in Wyoming" and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and "Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 25, 1975.

Adopted or amended by State: Dec. 14, 1984.

Approved by EPA: (Not yet approved).

[FR Doc. 85–17206 Filed 7–19–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42068; TSH–FRL 2849–1]

Carbofuran Intermediates; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC) recommendation of methally-2-nitrophenyl ether (CAS No. 13414–54–5), 7-nitro-2,2-dimethyl-2,3-dihydrobenzofuran (CAS No. 13414–55–6), and 7-amino-2,2-dimethyl-2,3-dihydrobenzofuran (CAS No. 68298–46–4), collectively known as the carbofuran intermediates (CIs), for priority consideration for chemical fate and environmental effects testing. EPA is not initiating rulemaking at this time under section 4(a) of the Toxic Substances Control Act (TSCA) to require any testing of the CIs because EPA does not believe that there is a basis to find that these substances may present an

unreasonable risk of injury to the environment nor that there is or may be substantial environmental release.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of 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).

SUPPLEMENTARY INFORMATION: EPA is not initiating rulemaking at this time under section 4(a) of TSCA to require chemical fate or environmental effects testing of the CIs as recommended by the ITC in its Eleventh Report.

I. Background

Section 4(e) of the TSCA (Pub. L. 94-469, 90 Stat. 2010 *et seq.*; 15 U.S.C. 2603 *et seq.*) established the ITC to recommend to EPA a list of chemicals to receive priority consideration for testing under section 4(a) of TSCA.

The ITC recommended, but did not designate for response within 12 months, methallyl-2-nitrophenyl ether (MNE, CAS No. 13414-54-5), 7-nitro-2,2-dimethyl-2,3-dihydrobenzofuran (NDD, CAS No. 13414-55-6) and 7-amino-2,2-dimethyl-2,3-dihydrobenzofuran (ADD, CAS No. 68248-46-4), collectively known as the carbofuran intermediates (CIs), for priority testing consideration in its Eleventh Report, published in the **Federal Register** of December 3, 1982 (47 FR 54626). This notice constitutes EPA's response to the ITC's recommendation of the CIs.

The ITC recommended chemical fate testing for the CIs with emphasis on environmental monitoring. The ITC's rationale for chemical fate testing was that there was insufficient information to characterize the nature of dispersion, concentration, and persistence of CIs in the environment.

The ITC also recommended environmental effects tests for the CIs including acute toxicity to fish and aquatic invertebrates. The ITC's rationale for environmental effects testing was that concentrations of CIs in wastewater effluent released to the aquatic environment were believed to approach the concentrations of CIs reported to cause acute effects in goldfish and possibly exceed levels for more sensitive species.

Under section 4(a)(1) of TSCA, the Administrator shall, by rule, require testing of a chemical substance to develop appropriate test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in which both exposure and toxicity information are considered in making a section 4(a)(1)(A)(i) finding that the chemical may present an unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure, and release information to determine whether there is substantial production, and signficant or substantial exposure, or substantial release. Thus, EPA can require testing for an effect under section 4(a)(1)(A) only if there is a suspicion of a hazard. Under 4(a)(1)(B), EPA can require testing whether or not there are data suggesting adverse effects if the relevant production and exposure or release criteria are met.

For the findings under both section 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing that the Agency might require would be capable of developing the necessary information. EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48510) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528, and the section 4(a)(1)(B) finding is discussed in 46 FR 30302.

In evaluating the ITC's testing recommendations for the CIs, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by the manufacturer of CIs under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712—Chemical Information Rules, Subpart B—Manufacturers Reporting—Preliminary Assessment Information); and published and unpublished data available to the Agency.

II. Review of Available Data

A. Environmental Release

The carbofuran intermediates are produced solely by FMC Coroporation in Baltimore, Maryland. Production was about 10 to 50 million pounds for each CI in 1977 (Ref. 1). The manufacturer has submitted to EPA production volumes for 1982 as confidential business information (Ref. 2).

FMC reports that the CIs are used consumptively as intermediates in closed systems during the production of the insecticide-nematicide carbofuran (Ref. 3). The manufacturer pretreats the effluent through a carbon bed adsorption system and a settling basin with pH adjustments. Since January, 1984, the manufacturer's pretreated effluent has been further treated by a local publicly owned treatment works (POTW). Approximately 10 to 20 thousand pounds of each of the CIs is expected to enter the POTW in 1985 (Ref. 4).

EPA has calculated worst-case predicted environmental concentrations (PECs) for the CIs in the discharge environment of 1.75 parts per billion (ppb) for MNE, 1.97 ppb for NDD and 0.85 ppb for ADD. These figures were derived from recent release data supplied to EPA by the manufacturer. Because we have no data on the fate of the CIs in the POTW or the environment, calculation of the PECs was based on the assumption that none of the CIs are removed during treatment by the POTW or from the discharge environment by physical or biological processes (Refs. 4 and 5). In addition, the dilution estimate for the discharge environment was conservatively based on an average 7 day per 10-year, low flow rate (7Q10) and included tidal flushing for the receiving brackish water. Sludge waste from the POTW

that is likely to contain the CIs is either incinerated or placed in a Resource Conservation and Recovery Act (RCRA)-regulated landfill where the CIs are expected to biodegrade (Ref. 6).

B. Chemical Fate

1. *Water solubility and octanol/water partition coefficient.* EPA has calculated water solubilities of 1,100 mg/L for MNE, 120 mg/L for NDD, and 2,300 for ADD and logs of the octanol/water partition coefficient (log P) of 2.75 for MNE, 3.33 for NDD, and 2.36 for ADD (Ref. 5). These calculated properties indicate that under equilibrium conditions the CIs will remain mainly in the water compartment.

2. *Soil mobility.* The adsorption properties of the CIs have not been reported in the available literature. However, using equations developed by Kenaga (Ref. 7) and Kenaga and Goring (Ref. 8), values for the adsorption coefficients (K_{oc}) have been estimated from the calulated lop P values (Ref. 5). These estimated adsorption coefficients of 746 for MNE, 1,540 for NDD and 458 for ADD indicate that the CIs will adsorb moderately to organic matter in soil and sediment and therefore can be considered moderately mobile. There are experimental data to indicate that aromatic amines chemically bind to soil organics (Refs. 9 and 10). Because ADD is an aromatic amine, it may bind chemically to organics in soil and therefore be less mobile than the other two CIs.

3. *Persistence.* EPA is not aware of any information on the environmental persistence of the CIs in the available literature. However, data on a compound structurally related to the CIs indicate that the CIs are likely to biodegrade in soil (Ref. 11).

Environmental Effects

1. *Acute toxicity.* The manufacturer reported measured 96hr LC_{50} values for goldfish of 6.5 ppm for MNE, 30 ppm for NDD and 56 to 140 ppm for ADD (Ref. 12).

2. *Other toxicity data.* EPA knows of no data on the chronic effects of CIs on fish, or on the acute or chronic effects of CIs on aquatic and benthic invertebrates.

III. Decision Not To Initiate Rulemaking

EPA has decided not to initiate rulemaking at this time to require chemical fate or environmental effects testing of the CIs. The ITC recommended environmental effects testing because concentrations of CIs in wastewater affluent released to the aquatic environment were believed to approach the concentrations of CIs reported to cause acute effects in goldfish and possibly exceed effected levels for more sensitive species. The ITC recommended chemical fate testing because there was insufficient information to characterize the nature of dispersion, concentration and persistence of CIs in the environment.

EPA has estimated the environmental risk posed by the CIs by comparing goldfish LC_{50}s (Unit II.C) to the PECs (Unit II.A). In general, if the LC_{50} for a chemical exceeds its envorinmental concentration by three orders of magnitude the Agency considers the substance to be of low concern. The factor of three orders of magnitude between the LC_{50}s and PEC takes into account interspecies, acute-to-chronic, field-to-lab, and lab-to-lab variability. Since the LC_{50}s for the CIs exceed the PECs for the CIs by three orders of magnitude, EPA finds no indication of potential unreasonable risk. Furthermore, EPA believes that factors used in calculating the predicted environmental concentrations, such as assuming a 7Q10 low flow rate for dilution and that no biodegradation or adsorption occurs to remove CIs in the POTW or environment, are very conservative and provide an additional margin of confidence that the CIs present no unreasonable risk to the environment.

In summary, the ITC recommended chemical fate and environmental effects testing of the CIs because they believed the environmental exposure exceeded effects levels in goldfish and possibly more sensitive species. However, EPA concludes from available data that information in Unit II.A through C of this notice does not support a TSCA section 4(a)(1)(A) finding that the CIs may present an unreasonable risk of injury to fish and invertebrates in the environment. EPA also concludes on the basis of information presented in Unit II.A of this notice, some of which was not available to the ITC, that there is not sufficient environmental release to support TSCA section 4(a)(1)(B) findings for chemical fate and environmental effects testing of CIs. Therefore, the Agency is not requiring testing for the CIs at this time.

IV. Public Record

EPA has established a public record for this decision not to test under Section 4 of TSCA (docket number OPTS-42068). The record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notice containing the ITC Report recommending methallyl-2-nitrophenyl ether, 7-nitro-2, 2-dimethyl-2,3-dihydrobenzofuran, and 7-amino-2, 2-dimethyl-2, 3-dihydrobenzofuran to the priority list.

(2) Communications consisting of:

(a) Written public and intra-agency or interagency memoranda and comments.

(b) Summaries of telephone conversations.

(c) Summaries of meetings.

(3) Reports—published and unpublished factual materials, including contractors' reports.

B. REFERENCES

(1) USEPA. U.S. Environmental Protection Agency. Nonconfidential TSCA Inventory for Carbofuran Intermediates from Producers of Chemicals in Commerce for 1977. 1981.

(2) USEPA. U.S. Environmental Protection Agency. Letter from D. Palmer of FMC Corporation to S. Newburg-Rinn, Office of Toxic Substances, USEPA with attached data for TSCA section 8(a) Preliminary Assessment Information Rule. (40 CFR Part 712—Chemical Information Rules, Subpart B—Manufacturers REporting—Preliminary Assessment Information.) February 15, 1983.

(3) USEPA. U.S. Environmental Protection Agency Hazard Information Review, Report for the Interagency Testing Committee prepared by Enviro Control Inc. Rockville, Maryland. September 17, 1981.

(4) USEPA. U.S. Environmental Protection Agency. Letter from R. Roseberry of FMC Corporation to M. McCommas, Office of Toxic Substances, USEPA. January 10, 1985.

(5) USEPA. U.S. Environmental Protection Agency. Memo: Estimated Environmental Concentration and Chemical Fate of the Carbofuran Intermediates, from R. Kinerson, Design and Development Branch, Office of Toxic Substances to M. McCommas, Test Rules Development Branch, Office of Toxic Substances. USEPA. February 16, 1984.

(6) USEPA. U.S. Environmental Protection Agency. Personal Communication between H.K. Latourette of FMC Corporation and M. McCommas, Office of Toxic Substances, USEPA. December 28, 1982.

(7) Kenaga, E.E. "Predicted bioconcentration and soil sorption coefficients of pesticides and other chemicals." *Ecotoxicol. Environ. Saf.* 4:26–38. 1980.

(8) Kenaga, E.E. and Goring C.A.I. "Relationship between water solubility, soil sorption, octanol-water partitioning, and concentration of chemicals in biota." *ASTM Spec. Tech. Publ. STP.* 707:78–115. 1980.

(9) Parris, G.E. "Covalent binding of aromatic amines to humate, 1—Reactions with carbonyl and quinones." *Env. Sci. Technology* 14:1099–1106. 1980.

(10) Bolleg, J.M., Minard, R.D., and Liu, S.V. "Crosslinkage between anilines and phenolic humus constituents." *Env. Sci. Technol.* 17:72–80. 1983.

(11) Clay, V.E., Fahmy, A.H.M., Martin, J.P. and T.R. Fukuto. "Degradation of 2,3-dihydro-2,2-dimethyl-7-benzofuranyl in Cosad Sandy Loam." *J. Agr. Food Chem. 28(6):1122–1129. 1980.*

(12) USEPA. U.S. Environmental Protection Agency. Letter from R. Roseberry of FMC

Corporation to M. McCommas, Office of Toxic Substances, USEPA, March 21, 1948.

This record includes basic information considered by the Agency in developing this notice. Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record from which CBI has been deleted is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Agency will supplement the record periodically with additional relevant information received.

Dated: July 15, 1985.

Authority: 15 U.S.C. 2603.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-17343 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2868-2]

Motor Vehicle Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for the Autotherm Energy Conservation System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the completion of the EPA evaluation of the "AUTOTHERM Energy Conservation System" under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. The notice also announces our findings, conclusions, and the availability of the report.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On May 21, 1984, the EPA received a request from AUTOTHERM Sales Corporation for evaluation of the AUTOTHERM Energy Conservation System as a fuel saving device. The device allows using the vehicle's heater to utilize the residual heat in the engine, and electrical circuitry to control the operation of the device.

Report: "EPA evaluation of the Autotherm Energy Conservation System Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report Number EPA-AA-TEB-511-85-1 contains the analysis and conclusions and consists of 85 pages including all attachments.

III. Availability of Evaluation Reports

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the Application. The evaluation of the AUTOTHERM Energy Conservation System was based on that information, tests conducted by the Air Force, and our engineering judgement.

The overall conclusion is that Autotherm Energy Conservation System, when used, has the potential to conserve fuel and lower exhaust emissions. In most cases, fuel savings should fall between 0.15 and 1.0 gallons of fuel per hour of device use. Engine size and efficiency are the primary determinants of the actual gallons saved per hour of device usage.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4299.

Dated: July 15, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-17344 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

Clearinghouse on Election Administration Clearinghouse Advisory Panel; Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A-63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:

Name: Federal Election Commission Clearinghouse, Advisory Panel.

Date: 5-6 August 1985.

Place: Washington Plaza-Hotel, Massachusetts and Vermont Aves., NW., Washington, DC.

Time: 0900-1200; 1400-1700 on 5 August 1985, 0900-1200; 1400-1700 on 6 August 1985.

Proposed Agenda: Discussion sessions addressing Clearinghouse research projects, including the Voting Systems Standards Project, the Voting Accessibility for the Elderly and Handicapped Act, the FEC Remote Access project; FEC campaign finance workshops, and the proposed use of Post Office Change of Address forms for voter registration purposes.

Purpose of the Meeting: The Panel will discuss the agenda items, present their views on problems in the administration of Federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future program development.

The Advisory Panel meeting is open to the public, dependent on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Penelope Bonsall, Clearinghouse on Election Administration, Federal Election Commission, 1325 K St., NW Washington, DC 20463.

Dated: July 18, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 85-17465 Filed 7-19-85; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 21, 1985

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on March 26, 1985.[1]

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests only a modest pickup in real GNP in the current quarter from the reduced rate of growth in the first quarter. Total retail sales rose in April to a level somewhat above the average for the first quarter, and housing starts increased further after rising substantially in the first quarter. Information on business capital spending suggests further growth, though at a much less rapid pace than earlier in the economic expansion. Industrial production declined slightly in April after rising little over the first quarter. Total nonfarm payroll employment increased at a somewhat reduced pace in April with employment in manufacturing registering another decline. The civilian unemployment rate remained at 7.3 percent in April. Broad measures of prices and wages appear to be rising at rates close to those recorded in 1984.

Since the Committee's meeting in late March, the trade-weighted value of the dollar against major foreign currencies has continued to fluctuate widely in often volatile market conditions and has declined moderately on balance. The trade and current account deficits widened in the first quarter as a rebound in non-oil imports from their low fourth-quarter level extended the pattern of sharp quarter-to-quarter swings experienced since the beginning of 1984.

Growth in M1 slowed markedly in March from the rapid pace of earlier months and remained moderate in April. The broader aggregates showed little change in April after their growth had slowed appreciably in March. Expansion in total domestic nonfinancial debt has remained relatively rapid. Interest rates have declined considerably since the March meeting of the Committee. On May 17, the Federal Reserve Board approved a reduction in the discount rate from 8 to 7½ percent.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at its meeting in February to establish ranges for monetary growth of 4 to 7 percent for M1, 6 to 9 percent for M2, and 6 to 9½ percent for M3 for the period from the fourth quarter of 1984 to the fourth quarter of 1985. The associated range for total domestic nonfinancial debt was set at 9 to 12 percent for the year 1985. The Committee agreed that growth in the monetary aggregates in the upper part of their ranges for 1985 may be appropriate, depending on developments with respect to velocity and provided that inflationary pressures remain subdued.

The Committee understood that policy implementation would require continuing appraisal of the relationships not only among the various measures of money and credit but also between those aggregates and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

In the implementation of policy for the immediate future, and against the background of the recent reduction in the discount rate, the Committee seeks to maintain about the same degree of pressure on bank reserve positions. This action is expected to be consistent with growth in M1 at an annual rate of around 6 percent or a little higher during the period from March to June, while M2 and M3, in the light of their weakness in April, are expected to grow more slowly over the quarter than the 7 and 8 percent annual rates, respectively, anticipated earlier. Somewhat lesser reserve restraint would be acceptable in the event of substantially slower growth of the monetary aggregates while somewhat greater restraint might be acceptable in the event of substantially higher growth. In either case such a change would be considered in the context of appraisals of the strength of the business expansion, progress against inflation, and conditions in domestic credit and foreign exchange markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, July 16, 1985.

Stephen H. Axilrod,

Secretary.

[FR Doc. 85-17284 Filed 7-19-85 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of policy actions of the Committee for the meeting of May 21, 1985, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Schulyer Bancorporation; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than August 12, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Schulyer Bancorporation*, Schulyer, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Schulyer State Bank and Trust Co., Schulyer, Nebraska.

Board of Governors of the Federal Reserve System, July 16, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17283 Filed 7-19-85; 8:45 am]

BILLING CODE 6210-01-M

Food and Drug Administration

[Docket No. 85D-0242]

Draft Guidelines Supplementing the Regulations Governing the Review and Approval of New Drug and Antibiotic Marketing Applications

Correction

In FR Doc. 85-15283 beginning on page 26411 in the issue of Wednesday, June 26, 1985, make the following correction: On page 26412, in the second column, in the fourth line, "is so" should read "if so".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New Systerm

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

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, Evaluation of the Social/Health Maintenance Organization (S/HMO) Demonstration, HHS/HCFA/ORD No. 09–70–0034. We have provided background information about the proposed system in the "Supplementary Information" section below. HCFA invites public comments by August 21, 1985, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on July 17, 1985. The new system of records, including routine uses, will become effective September 16, 1985, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Richard A. DeMeo, Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G–A–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Alan S. Friedlob, Division of Long-Term Care Experimentation, Office of Research and Demonstrations, Health Care Financing Administration, Room 2–F–3 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301–597–2364.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of section 402 of the 1967 Amendments to the Social Security Act, Pub. L. 90–248 as amended by section 222(b) of the Amendments to the Social Security Act, Pub. L. 92–603. The purpose of this system of records is to provide data necessary to evaluate HCFA's S/HMO demonstration projects. The S/HMO demonstration and evaluation have been Congressionally mandated by Pub. L. 98–369, "The Deficit Reduction Act of 1984". The S/HMO seeks to enroll voluntarily persons 65 years of age and over in an innovative prepaid program that integrates medical, social, and long-term care delivery systems. The S/HMO merges the health maintenance organization concepts of capitation financing and provider risk-sharing developed by HCFA under its Medicare capitation and competition demonstrations with the case-management and support services concepts underlying Department of Health and Human Services' sponsored long-term care demonstrations serving the chronically ill aged.

The system of records will include demongraphic, health status, long-term care services use, and satisfaction data collected through sample surveys of Medicare beneficaries who join the S/HMOs participating in the demonstration and comparison group benefitciaries choosing not to enroll. Demonstration contractors included in the evaluation are: Kaiser-Portland, Portland, Oregon; Elderplan, Inc., Brooklyn, New York; Medicare Partners, Inc., Minneapolis Minnesota; and SCAN Health Plan, Long Beach, California.

This information will be collected by a contractor that HCFA shall choose on or about September 1, 1985.

In order to fulfill the objective and complete tasks in this project, the contractor must have individually-identified records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, we do not anticipate that it will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for administering the Medicare program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 16, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

09–70–0034

SYSTEM NAME:

Evaluation of Social/Health Maintenance Organization (S/HMO) Demonstrations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

To be determined on or about September 1, 1985 by HCFA's selection of an evaluation contractor. Contact the systems manager for the location of the contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries residing in the following states and counties who join the social/health maintenance organization demonstrations and comparison group beneficiaries who choose not to enroll: *California:* Los Angeles, Orange; *Minnesota:* Hennepin, Ramsey; *New York:* Bronx, Kings, Queens; *Oregon:* Multnomah.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic characteristics (e.g., income, education, source of medical care), factors related to choice of S/HMO, data on satisfaction with S/HMO, data related to use of community-based and institutional long-term care services and informal care-givers; health and functional status assessment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402 of the Social Security Amendments of 1967, Pub. L. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Pub. L. 92–603, 42 U.S.C. 1395b–1.

PURPOSE(S):

To provide data necessary to evaluate HCFA's Social/Health Maintenance Organization demonstration projects, including information to study the impact of the S/HMO on Medicare beneficiaries' use of acute care and long-term care services; health status; choice of the S/HMO option; and satisfaction with the S/HMO alternative.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the evaluation contractor who will use this information to evaluate HCFA's S/HMO demonstration projects.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines

that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or the containment of costs in the Medicare and/or Medicaid programs if HCFA:

(a) Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

(b) Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use will be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these some conditions, and with written authorization of HCFA,

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and health insurance claim number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by DHHS *ADP Systems Manual*, Part 6, ADP Systems Security (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1989. Hardcopy records will be destroyed at this time.

SYSTEM MANAGERS(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address indicated above, specify name, address, and health insurance number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include surveys to be conducted of Medicare beneficiaries and their informal care-givers by HCFA's evaluation contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-17273 Filed 7-19-85; 8:45 am]
BILLING CODE 4120-03-M

Public Health Service

Statement of Organization, Functions and Delegations of Authority; Health Resources and Services Administration

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended most recently at 50 FR 3415-16, January 24, 1985), is amended to reflect the abolishment of the Division of Beneficiary Medical Programs, Bureau of Health Care Delivery and Assistance, and a change in the title and functions of the Division of Federal Employee Occupational Health, Bureau of Health Care Delivery and Assistance.

Under *Section HB-10, Organization and Functions*, amend the statement for the Bureau of Health Care Delivery and Assistance as follows:

(1) Delete the *Division of Beneficiary Medical Programs (HBC2)* in its entirety.

(2) Delete the statement for the *Division of Federal Employee Occupational Health (HBC9)* and substitute the following: *Division of Federal Occupational and Beneficiary Health Services (HBC9).*

Division of Federal Occupational and Beneficiary Health Services (HBC9).—(1) Provides consultation on, and stimulates the development of improved occupational health and safety programs throughout the Government; (2) provides evaluation, support, and direction to Federal agency health services in relation to standards; (3) administers

employee occupational health programs for other Federal agencies on a reimbursable basis; (4) conducts research studies, training, and demonstration projects; (5) develops occupational health standards and methods for Federal Employee Occupational Health Programs; (6) promotes activities designed to protect the occupational health and safety of Federal employees in order to maximize their productivity and reduce financial liability; (7) provides for the operation of a Federal agency contract formulation and assistance program for the standardization of contracting, cost comparison and analysis, and health program formulation for agencies desiring health units; (8) plans, develops, implements, and supervises the employee counseling service program operated by the Division; (9) plans, directs, and evaluates the delivery of health services for designated Public Health Service (PHS) beneficiaries, including direction of the contract health care program; (10) assures that adequate resources are available to provide comprehensive health care to eligible beneficiaries; (11) maintains relationships with health officials in other Federal and private agencies; (12) develops and implements Division standards for acceptable levels of utilization, cost, and efficiency of health care services; (13) evaluates the quality and appropriateness of Division health care programs and operations; (14) recommends automated systems activities for medical programs; (15) recommends financial management approaches to assure the integrity and appropriateness of provider reimbursement; (16) provides clinical and programmatic consultation, guidance and assistance to beneficiaries on their health care entitlement; (17) carries out all departmental responsibilities with regard to the Civilian Health Medical Care Program of the Uniform Services (CHAMPUS); (18) participates in the development of forward plans, legislative proposals and budgets for the Bureau; and (19) provides overall direction of the Data Records Center.

These organizational and functional changes are effective upon date of signature.

Dated: July 12, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations, and Director, Office of Management, PHS.

[FR Doc. 85-17317 Filed 7-19-85; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-20704, I-21520, and I-21521]

Realty Action; Direct Sale of Public Land in Owyhee County, ID

SUMMARY: The following-described lands have been examined, and through the land use planning process, have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 at no less than fair market value:

Boise Meridian, Idaho

T. 1 N., R. 3 W. (I-20704)
Sec. 27, NE¼SE¼SW¼;
Sec. 28, E½SE¼.
Containing 90 acres.

T. 4 S., R. 1 E. (I-21520)
Sec. 28, S½NE¼NW¼.
Containing 20 acres.

T. 4 S., R. 1 E. (I-21521)
Sec. 28, W½SW¼NE¼.
Containing 20 acres.

The patents, when issued, will contain the following reservations to the United States:

1. Ditches and canals.

2. Oil and gas and geothermal resources.

The patents will be subject to all valid, existing rights and reservations of record. This includes:

1. Oil and gas lease I-14584 held by Amoco, P.O. Box 800, Denver, Colorado 80201, on I-20704. Access, exploration, and development rights shall be reserved for this lease.

2. Irrigation ditch right-of-way I-05177 held by James Agenbroad and Sons, Route 3, Nampa, Idaho 83651, across I-20704.

3. A 60-foot road right-of-way to Owyhee County across I-21520.

4. County road right-of-way I-20724 across I-21521.

The lands are hereby segregated from appropriation under the public land laws, including the mining laws, as provided by 43 CFR 2711.1-2(d).

The lands of I-20704 are being offered by direct sale to Elias Jaca, the existing user who has placed improvements on the land and is the adjoining landowner. The lands of I-21520 are being offered by direct sale to O.M. Cox, the existing user and adjoining landowner. The lands of I-21521 are being offered by direct sale to Shirley Cox, the existing user who has placed improvements on the land and is the adjoining landowner.

Each offer to purchase will include a $50.00 nonreturnable filing fee for processing the conveyance of mineral interests of no known value.

If no offers to purchse are received within 30 days after these tracts are offered, each tract will be offered for sale by competitive bid until November 26, 1985.

DATE AND ADDRESSES: The sale offerings will be held in the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, no less than 60 days following the date of this notice.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions and other details can be obtained by contacting Blackie Bruegman at the above address, or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties my submit comments to the Boise District Manager at the above address.

Dated: July 5, 1985.

J. David Brunner,

Associate District Manager.

[FR Doc. 85-16806 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-GG-M

New Mexico; Filing of Plat of Survey

July 11, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 11, 1985.

The dependent resurvey of portions of the west and south boundaries of the Felipe Gutierrez or Bernalillo Grant, the south boundary of the Santa Ana Pueblo or El Ranchito Grant, the north and west boundaries of the Sandia Pueblo Grant, and the north boundary of the Town of Alameda Grant, a portion of the Third Standard Parallel North through Range 4 East, a portion of the subdivisional lines, certain boundaries of tracts and lots, and the subdivision of section 32, the survey of lots 6 through 8, section 29, lots 28 through 51, section 30, lots 23 through 46, section 31, and lots 24 through 45, section 32, Township 13 North, Range 4 East, and the dependent resurvey of a portion of the north boundary of the Sandia Pueblo Grant, certain boundaries of tracts and the survey of lots 15 through 22, section 5, Township 12 North, Range 4 East, New Mexico Principal Meridian, New Mexico under Group 794.

This survey was request by the Albuquerque District Manager, Bureau of Land Management.

The plat will be in the open files of the New Mexico State Office, Bureau of

Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-17301 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Intention to Extend Concession Contract; Bullfrog Resort & Marina, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with Bullfrog Resort & Marina, Incorporated, authorizing it to continue to provide accommodations, facilities, and services for the public at Glen Canyon National Recreation Area, Arizona, for a period of one (1) year from January 1, 1986, through December 31, 1986.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires on December 31, 1985, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, Denver, Colorado, for information as to the requirements of the proposed contract.

Dated: June 24, 1985.

Jack W. Neckels,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 85-17342 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held Friday, August 9, 1985.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The meeting will convene at Park Headquarters at 1:30 p.m. to discuss:

1. Status Report—Land Protection Plan.
2. Historic Preservation.
3. Herring River Environmental Studies.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663. Telephone: (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

July 11, 1985.

[FR Doc. 85-17341 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 13, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 6, 1985.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Mobile County

Mobile, *Stone Street Baptist Church*, 311 Tunstall St.

GEORGIA

Fulton County

Atlanta, *Castleberry Hill Historic District*, Roughly bounded by Nelson St., Southern & Central of Georgia RR, McDaniel, Peters & Walker Sts.

ILLINOIS

Cook County

Chicago, *Austin Historic District*, Roughly bounded by W. Ohio St., N. Waller, Parkside, W. West End & N. Mayfield Aves. & W. Corcoran Pl.

Logan County

Lincoln, *Lincoln Courthouse Square Historic District*, Roughly bounded by Sagamon, Pekin, Chicago, Delaware, Broadway & Pulaski Sts.

KENTUCKY

Bell County

Middlesboro, *Mt. Moriah Baptist Church*, 314 N. Main St.

Caldwell County

Fredonia, *Fredonia Cumberland Presbyterian Church*, US 641

Fayette County

Lexington, *Northeast Residential Historic District*, Roughly bounded by E. 5th St., Kleiser Ave., E. Fourth, Campsie Pl., Walnut St. & Humbard Alley

Laurel County

London, *Poynter Building*, Main St.

MASSACHUSETTS

Suffolk County

Charlestown, *Hoosac Stores 1 & 2-Hoosac Stores 3*, 25 and 115 Water St.

OHIO

Belmont County

Barnesville, *Barnesville Baltimore and Ohio Railroad Depot*, 300 E. Church St.

Cuyahoga County

Cleveland, *Cleveland Worsted Mills Company*, 5846—6116 Broadway

Cleveland, *Stockbridge Apartment Building*, 3328 Euclid Ave.

Fairfield County

West Rushfield, *Dilger Store*, 7640 Main St.

Franklin County

Columbus, *Miller, Frederick, A., House-Broad Gables*, 2065 Barton Pl. & 140 Park Dr.

Hamilton County

Cincinnati, *Frederick, Lunkenheimer, House*, 2133 Luray

Lorain County

Amherst Township, *South Ridge Schoolhouse, OH 113 and Betchtel Rd.*

OKLAHOMA

Carter County

Healdton vicinity, *Zaneis School Teacher's Dormitory*, Off US 70

PENNSYLVANIA

Allegheny County

Pittsburgh, *Bindley Hardware Company Building*, 401 Amberson Ave.

Washington County

West Middletown Borough, *West Middletown Historic District*, Main St.

VERMONT

Windsor County

Chester, *Chester Village Historic District*, Roughly bounded by Lovers Lane Brook, Maple St., Williams River, Middle Branch & Lovers Lane

WEST VIRGINIA

Cabell County

Huntington, *Campbell-Hicks House*, 1102 Fifth Ave.

Fayette County

Ansted, *Page-Vawter House*, Rt. 2, Box 20

Harrison County

Clarksburg, *Quality Hill Historic District*, East Main St.

[FR Doc. 85-17469 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Proposed NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

Comments on the proposed boundaries will be received for 60 days after the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, DC 20240, Attention: Chief of Registration (202) 343-9536. Copies of the documentation of the landmarks and their proposed boundaries, including maps may be obtained from that same office.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Kamakahonu National Historic Landmark

Kailua-Kona, Hawaii County, Hawaii

American Factors, Ltd. owns the major portions of old Kamakahonu in two parcels (7-5-06: parcels 24 and 32). These parcels are 0.8 and 1.6 acres, respectively. Additionally, the State of Hawaii owns a narrow strip of beach—lands below the high tide mark. Amfac's parcel 24 (0.8 acre) contains the reconstructed 'Ahu'ena Heiau and hale nana mahina'ai and the foundations of the hale poki.

Parcel 24 (0.8 acre) contains the only visible remains of the former Kamakahonu settlement. All other structures referred to in this text have been destroyed in the course of modern commercial developments.

[FR Doc. 85-17468 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-208, 209, and 210 (Final)]

Barbed Wire and Barbless Wire Strand From Argentina, Brazil, and Poland

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation No. 731-TA-210 (Final), Barbed Wire and Barbless Wire Strand from Poland and rescheduling of the hearing to be held in connection with investigations Nos. 731-TA-208 and 209 (Final), Barbed Wire and Barbless Wire Strand from Argentina and Brazil.

SUMMARY: On July 15, 1985, the Commission received a letter from petitioner in the subject investigations (Forbes Steel and Wire Corp.) which stated, with respect to the investigation on Poland, that it ". . . withdraws the above-described petition without prejudice" and that "the Commission is requested to terminate the investigation." Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigation is terminated:

Barbed Wire and Barbless Wire Strand from Poland (investigation No. 731-TA-210 (Final)).

The Commission further announces the rescheduling of the hearing to be held in connection with the investigations on Argentina and Brazil from 10:00 a.m. on July 24, 1985, to 10:00 a.m. on September 23, 1985.

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

Effective May 2, 1985, the Commission instituted the subject investigations and scheduled a hearing to be held in connection therewith for July 24, 1985 (50 FR 23083). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations on Argentina and Brazil from July 15, 1985 to September 16, 1985. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determinations in antidumping investigations within 45 days of Commerce's final determinations, or in these cases by October 30, 1985.

Staff report

A public version of the prehearing staff report in these investigations was placed in the public record on July 5, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on September 23, 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 September 12, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on September 17, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 17, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited 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 § 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 submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 1, 1985. 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 October 1, 1985.

A signed original 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, as amended by 49 FR 32569, Aug. 15, 1984). 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 must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "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).

Authority: these investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984)

By Order of the Commission.

Issued: July 17, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17365 Filed 7-19-85; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

July 16, 1985.

The Office of Management and Budget (OMB) has been sent 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. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available);

(2) The office of the agency issuing the form;

(3) The title of the form;

(4) The agency form number, if applicable;

(5) How often the form must be filled out;

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

(7) An estimate of the number of responses;

(8) An estimate of the total number of hours needed to fill out the form;

(9) An indication of whether section 3504(h) of Pub. L. 96-511 applies; and,

(10) The name and telephone number of the person or office responsible for the OMB review.

Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *AND* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible:

Department of Justice, Agency Clearance Officer: Larry E. Miesse, 202/633-4312

• New Collection

(1) Larry E. Miesse, 202/633-4312
(2) Bureau of Justice Statistics, Department of Justice
(3) Justice Assistance Data/Survey of Civil and Criminal Justice Activities
(4) CJ-6, CJ-23
(5) One-time
(6) State and local governments. This survey will collect data needed to comply with grant allocation procedures mandated by Congress under Justice Assistance Improvement Act of 1984. Data will be used to administer new grant programs and provide descriptive data for policymakers, planners, and practitioners.
(7) 8,000 respondents
(8) 3,750 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

• Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Nonresident Alien's Mexican Border Crossing Card
(4) I-190
(5) On occasion
(6) Individuals or households. Used to obtain data from applicant for a Mexican border crossing card (I-186/I-586) to determine eligibility of applicant.
(7) 250,000 respondents
(8) 28,333 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder-395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Request for Certification of Military or Naval Service
(4) N-426
(5) On occasion
(6) Individuals or households. Used to verify the military or naval service claimed by an applicant for naturalization under sections 328 or 329 of the I&N Act.
(7) 4,000 respondents
(8) 666 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312

(2) Immigration and Naturalization Service, Department of Justice
(3) Supplement to Application to File Petition for Naturalization (Seaman)
(4) N-400B
(5) On occasion
(6) Individuals or households. Used to determine eligibility of applicant for naturalization benefits under section 330 of the I&N Act.
(7) 25 respondents
(8) 4 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Change of Nonimmigrant Status
(4) I-506
(5) On occasion
(6) Individuals or households. Used to comply with Section 248 of the I&N Act by collecting adequate information to determine person's eligibility for nonimmigrant status and status change.
(7) 50,000 respondents
(8) 25,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Nonresident Alien's Canadian Border Crossing Card
(4) I-175
(5) On occasion
(6) Individuals or households. Used to obtain data from an applicant for a Canadian border crossing card to determine eligibility.
(7) 700 respondents
(8) 60 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Status as Permanent Resident
(4) I-485B
(5) On occasion
(6) Individuals or households. Used to adjust status to that of a lawful permanent resident of the U.S. under sections 245 and 249 of the I&N Act.
(7) 175,000 respondents
(8) 87,500 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Registration for Classification as Refugee
(4) I-590
(5) On occasion
(6) Individuals or households. Used to determine eligibility of applicant for refugee status under section 207, I&N Act.
(7) 75,000 respondents
(8) 25,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Biographic Information
(4) G-325
(5) On occasion
(6) Individuals or households. Used when necessary to check other agency records on applications or petitions submitted by applicants for benefits under I&N Act.
(7) 500,000 respondents
(8) 125,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Notice to Student or Exchange Visitor
(4) I-515
(5) On occasion
(6) Individuals or households. Used to notify students or exchange aliens admitted to the U.S. without required documentation to obtain required documents within 30 days and present same to INS office.
(7) 5,000 respondents
(8) 417 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Departure Information Card
(4) I-438
(5) On occasion
(6) Individuals or households. Used by aliens granted voluntary departure in lieu of deportation to notify INS of departure arrangements.
(7) 50,000 respondents
(8) 1,667 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Issuance of Refugee Travel Document
(4) I-570
(5) On occasion
(6) Individuals or households. Used to determine an applicant's eligibility for issuance of a refugee travel document.
(7) 11,000 respondents
(8) 11,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

Larry E. Miesse,
Agency Clearance Officer.
[FR Doc. 85-17191 Filed 7-19-85; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Form Submitted to the Office of Management and Budget for Clearance

The following package was submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Criminal Referral Form—NCUA 2362 and NCUA 2363

Respondents: Federally Insured Credit Unions

Abstract: All federally insured credit unions will be required to complete and, within seven business days, to report suspected criminal activity on NCUA 2362 or NCUA 2363 to the NCUA regional director, the U.S. Attorney, and the Federal Bureau of Investigation. The requirement will provide for timely and specific information needed for decisions regarding investigation and prosecution.

OMB Desk Officer for NCUA

Copies of the above information collection clearance package can be obtained by calling the NCUA Department of Supervision and Examination on (202) 357-1065.

Written comments and recommendations for the listed information and collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: July 16, 1985.

Rosemary Brady,
Secretary of the NCUA Board.
[FR Doc. 85-17293 Filed 7-19-85; 8:45 am]
BILLING CODE 7535-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Jacksonville, FL; Aviation Accident

In connection with its investigation of the accident involving the PBA, Inc. (Provincetown-Boston Airlines), Embraer Bandeirante EMB-110, N96PB, Jacksonville International Airport, Jacksonville, Florida, on December 6,

1984, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on Tuesday, August 6, 1985, in the ballroom, Marco Beach Hilton, 560 South Collier Boulevard, Marco Island, Florida 33937. For more information, contact Mr. Brad Dunbar, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Ave., SW., Washington, D.C. 20594, telephone (202) 382-6600.

Dated: July 15, 1985.

Catherine T. Kaputa,

Federal Register Liaison Officer.

[FR Doc. 85-17277 Filed 7-19-85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

Robert M. Bernero, Director, Division of Systems Integration, Office of Nuclear Reactor Regulation

Richard E. Cunningham, Director, Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards

James P. Murray, Deputy Executive Legal Director

William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights has been appointed as an ex officio nonvoting member.

In addition to the above appointments, the following members are continuing on the PRB:

John G. Davis, Director, Office of Nuclear Material Safety and Safeguards

Harold R. Denton, Director, Office of Nuclear Reactor Regulation

James G. Keppler, Regional Administrator, Region III

Martin G. Malsch, Deputy General Counsel for Domestic Licensing and Regulation, Office of the General Counsel

Patricia G. Norry, Director, Office of Administration

Thomas Rehm, Assistant for Operations, Office of the Executive Director for Operations

Denwood F. Ross, Deputy Director, Office of Nuclear Regulatory Research

James M. Taylor, Director, Office of Inspection and Enforcement

The NRC has created a Performance Review Board Panel with the following members:

Guy H. Cunningham, Executive Legal Director

Thomas E. Murley, Regional Administrator, Region I

Jack W. Roe, Deputy Executive Director for Operations

All appointments are made pursuant to section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia G. Norry, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7335.

Dated at Bethesda, Maryland, this 12th day of July, 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-17371 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

[FERMI-2; Docket No. 50-341]

Issuance of Facility Operating License; Detroit Edison Co. and Wolverine Power Supply Cooperative, Inc.

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF-43 to Detroit Edison Company and Wolverine Power Supply Cooperative, Incorporated (the licensees) which authorizes operation of Fermi-2 (the facility), at reactor core power levels not in excess of 3292 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

The issuance of this license was approved by the Nuclear Regulatory Commission at a meeting on July 10, 1985, and supersedes the License for Fuel Loading and Low Power Testing, License No. NPF-33, issued on March 20, 1985.

License No. NPF-43 incorporates changes to the technical specifications which were made subsequent to the issuance of NPF-33 and supersedes NPF-33.

Fermi-2 is a boiling water reactor located in Frenchtown Township, Monroe County, Michigan. The license is effective as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on May 18, 1975 (40 FR 23122).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-43, with Technical Specifications (NUREG-1141) and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated August 11, 1981; (3) the Commission's Safety Evaluation Report, dated July 1981 (NUREG-0798), and Supplements 1 through 6; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; and (6) the Final Environmental Statement, dated August 1981.

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and at the Monroe County Library Systems, Reference Department, 3700 Custer Road, Monroe, Michigan 48161. A copy of Facility Operating License NPF-43 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and Supplements 1 through 6 (NUREG-0798) and the Final Environmental Statement (NUREG-0769) may be ordered by calling (202) 275-2060 or (202) 275-2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013-7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, VISA or Mastercard number and expiration date. Anyone wishing to inquire about a subscription account or subscribe to a periodic NRC publication may do so by calling GPO at (202) 783-3238. The NRC will continue to participate in the National Technical Information Service Program and

individuals or organizations may continue to purchase NRC documents at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 15th day of July, 1985.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-17366 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp. et al., (Crystal River Unit No. 3 Nuclear Generating Plant); Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR-72 which authorizes operation of Crystal River Unit No. 3 Nuclear Generating Plant (CR-3) at steady state reactor power levels not in excess of 2544 megawatts thermal. The facility comprises one pressurized water reactor at the licensee's site located in Citrus County, Florida. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR Part 50, Appendix R, Section III, identifies specific fire protection required to be provided by a licensee authorized to operate a nuclear power reactor. 10 CFR 50.48(c) identifies the schedules for the completion of fire protection modifications for which a plant shutdown is required. By letter dated October 5, 1984, as superseded March 1, 1985, the licensee requested that the current deadline of Refuel V (July 1985) be extended to the first quarter of 1986 (March 31, 1986) for the fire protection modifications identified below.

The time extension is needed to implement the following modifications:

1. Installations of the dedicated heating, ventilating and air conditioning (HVAC) system for safe shutdown areas of the Control Complex;

2. Installation of the 3-hour rated fire barrier for the ceilings in the new Emergency Feedwater Initiation and Control (EFIC) Room located on elevation 124 feet of the Control Complex; and

3. Installation of fire barriers for protection of safety-related cable trays and conduits in the Auxiliary Building, Intermediate Building and Control Complex.

III

The licensee has indicated that the proposed exemption is needed because of the extremely ambitious scope of the presently planned 20-week outage and the difficulty of completing all the required modifications within the scheduled shutdown period. As a measure of the scope of the modifications being performed during this outage, the total cost of the outage will be approximately $110 million, covering 1.8 million manhours, and occupying 1800 craft and supervisory personnel associated with modifications. Major modifications include those required for Emergency Feedwater Initiation and Control, Reactor Coolant Inventory Tracking System, Evironmental Qualification, and Appendix R including Remote Shutdown Capability. The requested exemption addresses areas where there are significant conflicts between the Appendix R work scope other and work scopes, making concurrent accomplishment during this outage impractical. The licensee concludes that modifications covered by the requested exemption can be completed within the requested time extension without adversely affecting public health and safety, based on (1) compensatory measures proposed, (2) completion of the major Appendix R modifications during this shutdown, and (3) ability of the onsite fire brigade to respond rapidly to any fires in the affected areas.

As compensation pending the completion of the modifications indentified above, the licensee will implement a roving fire watch patrol in all areas for which schedular relief has been requested. The fire watch will continue until all fire protection related work associated with Appendix R has been completed. The routing of the fire watch will be established to ensure that the patrol observes each area in which a fire could damage redundant shutdown related systems. It will return to these areas at a frequency of about once every twenty minutes.

If a fire should occur within any area provided with a fire watch, there is reasonable assurance that it will be detected in its incipient stages, before significant flame propgation or temperature rise occur. Upon discovery of a fire, the Control Room will be immediately notified and fire brigade response initiated. Pending arrival of the brigade, the fire watch, having been trained in the proper use of portable fire extinguishers, will be capable of suppressing the fire before significant damage occurs. We therefore have reasonable assurance that, pending completion of the licensee's Appendix R related modifications, the advent of fire in any of these areas will not result in damage to shutdown systems to the extent that safe plant shutdown could not be achieved and maintained.

Based on the considerations discussed above, the Commission concludes that the licensee has provided reasonable and acceptable interim post-fire safe shutdown capability or interim fire protection measures to support the exemption request.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption as requested by the licensee's letter of October 5, 1984, as superseded by letter dated March 1, 1985, is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants an exemption from the requirements of 10 CFR 50.48(c) to extend the deadline for completion of the above identified fire protection modifications at Crystal River Unit 3 Nuclear Generating Plant until March 31, 1986.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 28858).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 16th day of July, 1985.

Darrell G. Eisenhut,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-17367 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Gessar II; Meeting

The ACRS Subcommittee on GESSAR II will hold a meeting on August 7, 1985, Room 1167, 1717 H Street, NW., Washington, DC.

To the extent practical the meeting will be open to public attendance. However, portions of the meeting will be closed to discuss proprietary information relating to the GESSAR probabilistic risk assessment and plant security.

The agenda for subject meeting shall be as follows:

Wednesday, August 7, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of GESSAR II for a Final Design Approval applicable to future plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 16, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–17374 Filed 7–19–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on July 31, 1985, in Room 1167, at 1717 H Street, NW., Washington, DC.

The meeting will, for the most part, be open to public attendance. However, portions of the meeting will be closed for the discussion of Institute of Nuclear Power Operations (INPO) proprietary information.

The agenda for the subject meeting shall be as follows:

Wednesday, July 31, 1985–8:30 a.m. until the conclusion of business

The Subcommittee will review the INPO Radiation Protection Program, particularly as it relates to a similar and related NRC program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practiable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee and its consultants will then hear presentations by and hold discussions with representatives of INPO, the NRC Staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen Merrill (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 17, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–17373 Filed 7–19–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittees on Waste Management and Procedures and Administration; Meeting

The ACRS Subcommittees on Waste Management, and Procedures and Administration will hold a joint meeting on July 30, 1985, Room 1046, 1717 H Street, NW., Washington, D.C.

The meeting will, for the most part, be open to public attendance. However, portions of the meeting may be closed for the discussion of inviduals as potential consultants to the Waste Management Subcommittee.

The agenda for the subject meeting shall be as follows:

Tuesday, July 30, 1985—8:30 a.m. until the conclusion of business

The Subcommittees will review the ACRS Role in the Civilian High-Level Radioactive Waste Management Program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the congnizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 17, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17372 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22240; SR-Amex-84-41]

Self-Regulatory Organizations; the American Stock Exchange, Inc.; Order Approving Proposed Rule Change

The American Stock Exchange, Inc. ("Amex") submitted on December 28, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Rule 950 to permit stop and stop limit option orders to be elected when the quoted market for the option reaches the appropriate bid or offer price, in addition to being elected when a transaction in the security occurs at the appropriate stop or stop limit price. The amended rule is primarily designed to increase the effectiveness of these orders when used in connection with inactive option series.

The rule proposal provides that procedures applicable for the election of stop and stop limit orders by transaction shall be governed by Amex Rule 154, Commentary .04 relating to stop and stop limit orders for equity securities. The Amex has pending with the Commission a proposal to amend Commentary .04 to permit specialists on the equity side of the market to accept stop orders and to elect stop orders for their own account provided that the specialist first obtains a floor official's approval and executes the stop order at the same price as the electing transaction.[1] Under the Amex's proposal to amend Rule 950, this procedure also would apply to the options market.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21629, January 3, 1985) and by publication in the **Federal Register** (50 FR 1964, January 4 1985). No written comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requirements of Section 6 and the rules and regulations thereunder. At this time, however, the Commission is approving only that part of the rule proposal providing for election of stop and stop limit orders by quotation. The Commission defers action upon that part of the proposal providing for election by transaction until such time as the Commission acts upon SR-Amex-84—32 (*see* note 1, *supra*).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above mentioned proposed rule change (with the exception discussed herein) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17324 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* SR-Amex-84-32, which was noticed in Securities Exchange Act Release No. 21654 (January 11, 1985), 50 FR 2745 (January 18, 1985).

[Release No. 35-23765; 70-7128]

Central Power and Light Co.; Proposal To Make Tender Offer for $150 Million of Securities, and To Issue and Sell $90 Million of First Mortgage Bonds and $95 Million of Debentures

July 16, 1985.

Central Power and Light Company ("Company"), a subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(a) 7, 9(a), 10 and 12(c) of the Public Utility Holding Company Act ("Act"), and Rules 42 and 50 thereunder.

The Company has $75 million of its First Mortgage Bonds, Series R, 14 ⅝% due January 1, 2011 ("Bonds"), and $75 million of its 15 ⅞% Debentures, Series 1982, Due April 1, 2012 ("Debentures"), collectively ("Securities") presently outstanding. The bonds may not be redeemed at a lower cost of money prior to January 1, 1988 and the Debentures may not be so redeemed prior to April 1, 1987. Since the Securities were issued, there has been a dramatic reduction in long term interest rates. The Company believes that comparable securities issued in today's market would bear significantly lower interest rates, and refunding of the Securities would benefit the Company's ratepayers by reducing the present interest costs to the Company. Although the Securities cannot presently be called due to refunding restrictions it is possible to repurchase for cash a substantial portion of the Securities through tender offers ("Tender Offers") to the holders which the Company proposes to make in the form of a letter to all Security holders. The Security holders may also be notified by telephone of the offers. The Company presently intends to hold open the offers for ten days but if market conditions require or particular Security holders require, the Company requests authority to extend the offer periods. Based on the experience of other utility companies, the Company expects that 80% to 90% of the Securities will be tendered.

Under the present market conditions based upon the information from several investment bankers, the Company believes that a Tender Offer for the Bonds could be successfully made at approximately 115% of the principal amount thereof, plus accrued interest. Similarly, a Tender Offer for the Debentures could be made at approximately 121% of the principal amount, plus accrued interest. The Tender Offer prices must be determined shortly before the Tender Offer commences.The actual prices will be based on a number of factors, including the coupon rate of the Securities, the date of expiration of the refunding protection on the Securities, the call price on such expiration date and the present market rates for similar bonds and debentures. Based upon limited information available to the Company, similar bonds and debentures have recently bid at a price of 114.125% and 119% of the principal amount thereof, respectively.

Based on today's market conditions the Company estimates that it could issue new 30-year first mortgage bonds ("New Bonds") at an interest rate of approximately 11.50%. Assuming that 100% of the Bonds are tendered, the transactions would reduce annual interest costs to the Company by approximately $675,000, including the amortization of the premium to be paid on the Bonds over the life of the New Bonds, for a total interest savings over the remaining life of the Bonds of approximately $16,875,000.

The Company intends to issue new debentures to provide funds to pay the tender price to the Debenture holders. Based on today's market conditions, the Company estimates that it could issue new debentures ("New Debentures") at an interest rate of approximately 11.75%. Assuming 100% of the Debentures are tendered, the transactions would reduce interest costs to the Company by approximately $718,000, annually including the amortization of the

premium to be paid on the Debentures over the life of the New Debentures, for a total interest savings over the remaining life of the Debentures of approximately $18,600,000.

The Company proposes to retain Salomon Brothers Inc. as the Company's tender agent and dealer-manager for the Tender Offer for the Bonds, and Goldman, Sachs & Co. as tender agent and dealer-manager for the Tender Offer for the Debentures in order to obtain the benefit of their experiences in similar transactions involving other utilities. The dealer-managers will not become obligated to purchase or sell any of the Securities. They will act merely as the Company's agents in disseminating the offer and receiving responses thereto. The dealer-manager's fee for the Bonds will be $2.50 per $1,000 principal amount of Bonds tendered, a solicitation fee of $1.50 per $1,000 principal amount of Bonds, plus reimbursement of out of pocket expenses in an amount not to exceed $20,000. In addition, the Company will reimburse the dealer-manager for its attorney fees not to exceed $15,000. The dealer-manager's fee for the Debentures will be $5.00 per $1,000 principal amount of Debentures tendered plus reimbursement of out of pocket expenses in an amount not to exceed $20,000. In addition, the Company will reimburse the dealer-manager for its attorney fees not to exceed $20,000. As is customary, the Company will be required to indemnify the dealer-managers for certain liabilities as provided in the contracts with the dealer-managers. While not yet determined, the Company may also retain depositaries to hold the tendered Securities pending the purchase thereof and/or an information agent to assist in the Tender Offers. If any such arrangements are entered into, they will be on customary items which will be filed by amendment.

Depending upon the amount of Securities tendered and the price paid for the tendered Securities, it will be necessary for the Company to issue up to approximately $90,000,000 principal amount of New Bonds and $95,000,000 principal amount of New Debentures in order to fund the purchase of the tendered Securities. The New Bonds would not be issued until completion of the Tender Offer to allow the company to have the New Bonds authenticated against the retired Bonds rather than property additions.

The New Bonds and the Debentures will be offered by competitive bidding in one or more series with up to 30-year maturity periods. The price to be paid to the Company for the New Bonds and the New Debentures (exclusive of any accrued interest which will be added to such price) will not be less than 98%, nor more than 101.75%, of the principal amount of the New Bonds and New Debentures. It is anticipated that the New Bonds and New Debentures will be redeemable at any time in whole or in part provided that such redemption will not be allowed for a period of five years from issue if it is part of a refunding at an effective interest cost lower than that of the particular series of the New Bonds or New Debentures.

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 August 8, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for 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 application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17326 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22239; File No. SR-OCC-83-22]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of Options Clearing Corp.

On October 11, 1983, Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") to regulate facilities management agreements of OCC Clearing Members. Notice of the proposal was published in Securities Exchange Act Release No. 20323 (October 24, 1983), 48 FR 50187. On January 7, 1985, OCC filed substantive amendments to the proposal. Notice of the amendment was published in Securities Exchange Act Release No. 21827 (March 8, 1985), 50 FR 10334 (March 14, 1985). The Commission did not receive any comments on the proposal. As discussed below, the Commission is approving the proposed rule change.

I. Description

OCC proposes rules and procedures governing facilities management agreements between OCC Clearing Members. Under a typical facilities management agreement, a Clearing Member with clearance and settlement facilities (the "Managing Clearing Member") agrees to perform "back-office" sevices for another Clearing Member (the "Managed Cleaing Member") for a fee. The Managing Clearing Member may perform a variety of services for the Managed Clearing Member including: (1) Ministerial and cashiering functions; (2) preparation of trade input; (3) adjustment and settlement of options; (4) receipt, delivery, and custody of cash and securities; and (5) processing of exchange offers, tender offers, and redemptions.[1]

The proposal would change OCC's By-laws and Rules in several ways. First, the proposal would add Interpretation and Policy ("I&P") Four to OCC By-law Article V governing Clearing Member qualifications. Second, the proposal would add new OCC Rule 309 entitled "Managing Clearing Members and Managed Clearing Members." Finally, the proposal would amend OCC Rule 305 to authorize OCC to limit, under specified circumstances, the facilities management activities of Clearing Members.

New I&P Four would provide that OCC's Membership Committee will consider the provisions of a facilities management contract of an applicant for OCC membership as a managed Clearing Member to determine whether OCC's membership requirements have been met. The applicant would rely on its facilities management contract with a Managing Clearing Member to meet several of those requirements.[2] With

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[1] The proposal does not affect what services a Managing Clearing Member may perform for a Managed Clearing Member. This continues to be an item of negotiation between the parties.

[2] OCC will look to the Managing Clearing Member with regard to: (1) Complying with the Act's books and record maintenance requirements; (2) demonstrating an ability to reconcile uncompared trades on a timely and efficient basis under options exchange rules and procedures; and (3) using personnel and procedures sufficent to discharge Clearing Member functions timely and efficiently. *See* OCC By-law Article V, § 1, I&P Two.

respect to services that will not be performed by the Managing Clearing Member, however, the Managed Clearing Member must show OCC's Membership Committee that it has the operational experience, capability and competence to perform those services. Moreover, the Managed Clearing Member must satisfy on its own several important membership criteria.[3]

In addition to reviewing facilities management contracts of applicants, OCC will review Managing Clearing Members and approve or disapprove them to act as Managing Clearing Members.[4] Moreover OCC will conduct periodic reviews of Managing Clearing Members and require further operational readiness reviews each time a Managing Clearing Member expands its facilities management activities by an additional four Managed Clearing Members.

New I&P Four requires that several provisions be in a facilities management agreement. First, the agreement must specify the services that will be performed by the Managing Clearing Member for the Managed Clearing Member and the respective duties and obligations of each. Second, the agreement must provide that it will not be terminated unless OCC is given 30 days prior written notice of termination. Third, the agreement must provide for its termination if OCC disapproves the Managing Clearing Member from acting as such. Last, all existing facilities management agreements must meet the requirements of OCC By-law Article V, Section 1 within 120 days from the effective date of the proposal.

New I&P Four also provides that OCC's Membership Committee will review a facilities management contract between an applicant and a facilities manager that is not an OCC Clearing Member when the facilities manager agrees to perform an applicant Clearing Member's obligations relating to OCC, OCC's Clearing Members or the maintenance of required books and records. Under those circumstances, the proposal provides that each facilities management agreement will be considered by OCC for approval on a case-by-case basis.

In addition to proposed I&P Four, the proposed rule change would add new OCC Rule 309. That Rule would institute specific requirements for facilities management activities. First, Rule 309 defines Managing Clearing Member as a Clearing Member that provides any facilities management services to one or more other Clearing Members, *i.e.*, Managed Clearing Members. Second, Rule 309 would create additional new net capital requirements for Managing Clearing Members. Managing Clearing Members would be required to maintain net capital which is the greater of the minimum net capital required by OCC Rule 302 [5] or the sum of $300,000 plus $50,000 times the number of its Managed Clearing Members in excess of four. Third, Rule 309 would require Managing Clearing Members to notify OCC if their net capital requirements are not met and would authorize OCC, under specified circumstances, to impose restrictions or limitations on the activities of Managing and Managed Clearing Members.[6] Those limitations or restrictions can be imposed if OCC's Chairman or President determines that the financial or operational condition of the Clearing Members makes limitations or restrictions necessary or advisable to protect OCC, other Clearing Members, or the general public. Finally, OCC Rule 309 states that, if a facilities management agreement is terminated, affected Managed Clearing Members must withdraw from OCC membership. Alternatively, the Managed Clearing Member can retain its membership by demonstrating to OCC's Membership Committee that it can perform the previously managed services itself or has entered into another facilities management agreement that is acceptable to OCC.

OCC's amendments to OCC Rule 305 would incorporate OCC's authority to impose the above restrictions and limitations on Clearing Member's activities and would clarify that OCC is authorized to restrict or limit Clearing Members' facilities management activities.

II. OCC'S Rationale

OCC states in its filing that facilities management agreements between Clearing Members have existed for a number of years. OCC represents that it recently has witnessed a substantial increase in facilities management arrangements and believes that Managed Clearing Members are relying increasingly on Managing Clearing Members to perform broader functions or all operational functions for the Managed Clearing Members. For those reasons, OCC believes that its proposal is now necessary.

OCC states that the proposal defines clearly the relationship between Managed and Managing Clearing Members and their respective relationships to OCC. OCC believes that I & P Four provides clear guidelines as to how the Managed and Managing Clearing Members can meet and maintain OCC's standards for Clearing Member operational capacity, experience and competence. Similarly, OCC believes its increased net capital requirements for certain Managing Clearing Members helps to inform it of the potential liabilities of facilities managements relationships and should help to ensure that those firms can meet those liabilities.

OCC notes that there has been an increasing tendency for Managed Clearing Members to use OCC Managing Clearing Members. OCC states in its filing, however, that it has allowed, and will continue to allow, Managed Clearing Members to maintain facilities management agreements with non-Clearing Member facilities managers. Nevertheless, OCC notes that, because those facilities managers are not OCC Clearing Members, OCC

[3] The Managed Clearing Member still must meet OCC's financial responsibility membership requirements. For example, the Managed Clearing Member must: (1) Meet OCC's initial financial requirements in OCC's Rules; (2) not sustain significant net pre-tax losses; or (3) not be on the Securities Investor Protection corporation's special surveillance list. *See* Article V, § 1 I&P One. The Managed Clearing Member also must meet several OCC operational requirements. For example, the Managed Clearing Member or any of its associated persons: (1) Cannot be subject to a "statutory disqualification" defined in § 3 of the Act; and (2) must not have been engaged or be reasonably likely to engage again in acts or practices inconsistent with just and equitable principles of trade.

[4] To qualify for OCC approval, a Managing Clearing Member must have "the requisite operational capability, experience and competence and [must have] allocated sufficient resources and experienced staff to enable it properly to serve . . . all facilities management agreements . . . and that it [has sufficient net capital under OCC's Rules for Managing Clearing Members]" Proposed I&P 4c. In addition, OCC's Membership Committee will not recommend for membership any Managed Clearing Member whose proposed Managing Clearing Member: (1) Lacks options clearing experience and has failed to employ sufficiently experienced personnel to compensate for that weakness (*see* Article V, § 1, I&P 3c); (2) has less than two key operations personnel that have attended OCC operations readiness review sessions and have passed any applicable OCC operational and financial examinations (*see* Article V, § 1 I&P 3d); and (3) has not yet undertaken to apply for approval to clear the type of option transaction contemplated in the facilities management agreement (*see* Article V, § 1, I&P 3e).

[5] OCC Rule 302 requires OCC Clearing Members to maintain net capital that is the greater of $100,000, 6⅔ percent of its aggregate indebtedness, or, for Clearing Members using OCC's alternative net capital requirements, 2 percent of its aggregate debit items. *See also* OCC Rule 301 which sets forth initial net capital requirements as opposed to minimum net capital maintenance requirements.

[6] Those restrictions include: Prohibitions against distributions that would cause the member's net capital to fall below OCC's requirements; limitations on the clearence of opening purchase transactions and/or opening writing transactions; and requirements that the member reduce or eliminate short positions for which underlying securities have not been deposited with OCC under OCC Rules Chapter VI. *See* OCC Rules 304 and 305.

regulatory authority over those facilities managers is very different than its authority over facilities manager that are Clearing Members. Thus, OCC believes it necessary to continue to review such arrangements on a case-by-case basis.

OCC states in its filing that its proposal is consistent with Section 17A of the Act because it will facilitate the prompt and accurate clearance and settlement of securities transactions. OCC also states that the proposal will serve to protect the public interest, OCC Clearing Members, and OCC.

III. Discussion

The Commission agrees with OCC that the proposal is consistent with the Act and should be approved. Specifically, the Commission believes that OCC's proposal is consistent with the requirement of Section 17A that a clearing agency safeguard securities and funds in its custody or control or for which it is responsible. The Commission agrees with OCC that facilities management activities of OCC Clearing Members pose potential financial exposure to OCC and its Clearing Members. The Commission believes, however, that the safeguards incorporated in OCC's proposal should protect OCC, its members, and the public from that exposure. The proposal's increased net capital requirements for Managing Clearing Members should provide OCC with additional assurances of financial responsibility. If Managing or Managed Clearing Members fail to maintain required net capital, the proposal enables OCC to restrict or limit the activities of those members to protect OCC, other OCC members, and the public. In addition, the proposal provides for adequate monitoring by OCC of facilities management arrangements. OCC will approve a Managing Clearing Member to act as such only so long as the Managing Clearing Member demonstrates its operational capability in both periodic reviews by OCC and automatically whenever the Managing Clearing Member expands its activities by an additional four Managed Clearing Members. For Managed Clearing Members, all of OCC's membership requirements and monitoring programs will continue to apply except for functions performed by Managing Clearing Members, which also must meet applicable OCC requirements. In addition, the proposal ensures that if a facilities management arrangement is terminated, affected Managed Clearing Members must withdraw from OCC membership or satisfy OCC's membership requirements on their own or through a new facilities management arrangement.

Finally, the Commission believes that the proposal will promote the prompt and accurate clearance and settlement of securities transactions under section 17A of the Act. By subjecting facilities management arrangements to structured regulatory oversight, the proposal should help to ensure that facilities management services are being performed adequately.

IV. Conclusion

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17325 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22241; File No. SR-NASD-85-18]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc.; Relating to Proposed Fees To Be Paid by Members Receiving the Computer Assisted Execution Servcie ("CAES")

The National Association of Securities Dealers, Inc. ("NASD"), on July 10, 1985 filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Item I, II, and III below. These Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment establishes service and transaction charges to be paid by members receiving the Computer Assisted Execution Services ("CAES"). The new fee schedule will result in the costs of operation and enhancement to the system being borne by CAES market makers.

II. Self-Regulatory Organization's Statement Regarding 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 of the Purpose of, and Statutory Basis for, the Proposed Rule

The CAES User Committee, which has a significant representation of the CAES market makers, has requested that certain enhancements be made to CAES which will require additional funding. The new fee schedule is designed to recover developmental and operational costs of CAES..

Section 15A(b)(5) of the Securities Exchange Act provides that the rules of a National Securities Association must provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers and other persons using any facility of the Association.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Association believes that the fees charged to CAES are nominal, and does not foresee any impact on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes 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 the 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 changes 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 and Exchange Commission, 450 5th Street 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 Room, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available at the principal office of the NASD. All submissions should refer to File No. SR-NASD-85-18 and should be submitted by August 12, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17322 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14637; 812-6129]

Carnegie-Cappiello Growth Trust et al.; Notice of Application for an Order Granting Exemptions

July 16, 1985.

Notice is hereby given that Carnegie-Cappiello Growth Trust, Carnegie Government Securities Trust, Carnegie Tax Free Income Trust, and Liquid Capital Income Trust ("Applicants"), 1331 Euclid Avenue, Cleveland, Ohio 44115, open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on June 7, 1985, for an order of the Commission, (1) pursuant to section 6(c) of the Act, exempting Applicants and all subsequent funds and similar series of funds organized and managed by Carnegie Capital Management Company (together with Applicants, "Carnegie Funds"), from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, to the extent necessary to permit the Carnegie Funds to enter into deferred fee agreements with certain of their trustees ("Agreements"), and (2) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting the Carnegie Funds to effect certain affiliated transactions incident to the Agreements. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant statutory provisions.

Applicants state that, with the exception of Carnegie-Cappiello Growth Trust, each Applicant has a board of trustees comprised of six persons, none of whom are "interested persons" within the meaning of section 2(a)(19) of the Act. Carnegie-Cappiello Growth Trust's board of trustees is comprised of seven persons, only one of whom is an "interested person." Each of the disinterested trustees receives trustees' fees in varying amounts for serving as a trustee of any Applicant, in addition to a fee in varying amounts for each board meeting attended, and that each trustee is also reimbursed for expenses incurred in attending any meeting of the board and, if a member, the audit committee. Applicants represent that they do not pay any other remuneration to their trustees and that the trustees' fees paid are, and are expected to continue to be, insignificant in comparison to each Applicant's total net assets.

It is stated that under the Agreements, Applicants would be able to defer payment of trustees' fees otherwise currently payable so as to avoid a loss or diminution of social security benefits, to defer payment of income taxes on such fees, or for other reasons. The institution of the Agreements is expected to enhance the ability of the Funds to attract and retain trustees of the same high caliber as those who presently serve on their boards. Applicants state that the deferred trustees' fees will be credited, as of the date such fees would have been paid, to a book reserve account ("Deferred Fee Account") that will be established on each Applicant's books, and that trustees' fees that become payable for attending board meetings will be credited to the applicable Applicant's Deferred Fee Account on the following business day.

Fees thus deferred will accrue interest daily from the date they are credited to the Deferred Fee Account, and the rate of return on amounts (including accrued interest) in the Deferred Fee Account will be equivalent to the rate payable on shares of Liquid Capital Income Trust. Each Applicant may purchase shares of Liquid Capital Income Trust to fund interest payments on amounts in such Applicant's Deferred Fee Account; however, pursuant to the Agreements, payment of deferred fees and accrued interest will constitute a general obligation of each Applicant, and such payment will be made out of each Applicant's general assets and property; a trustee entitled to payment of deferred fees will be a general unsecured creditor of the Applicant he serves. Applicants represent that the Agreements will not create a trust or fiduciary relationship between an Applicant and its trustees, nor will they constitute a security interest of any kind in any property of the Applicants in favor of a trustee or any third person.

Applicants state that the deferred trustees' fees (including interest accrued thereon) will become payable in cash upon termination of a trustee's services in such capacity; in a lump sum; or in such number of annual installments as shall be elected in writing by such trustee, subject to the right of each Applicant, in its sole discretion, to accelerate payment of such fees. In the event of a trustee's death or disability, amounts payable to him under the Agreement will be paid in a lump sum on the date specified in the Agreement, subject to each Applicant's right to accelerate payment. Such amount will be payable to the trustee's personal representative or designated beneficiary; in all other events, the trustee's right to receive payments will be non-transferable. Applicants state that the Agreements will not obligate them to retain a trustee in such capacity, nor will they obligate Applicants to pay any (or any particular level of) trustees' fees to any trustee. Applicants further represent that deferral of trustees' fees in accordance with the Agreements will have a negligible effect on their assets, liabilities, net assets and net income per share.

Applicants contend that they should be exempted from the provisions of sections 18(f)(1) and 13(a)(2) of the Act because the Agreements would not possess any of the caracteristics of a senior security which led Congress to enact section 18 of the Act. Applicants would not "borrow" from their trustees, and all liabilities created by credits to Deferred Fee Accounts would be offset by equivalent amounts of assets that would not exist if the deferred fees were paid currently. Applicants assert that the Agreements would not: (1) Induce speculative investments by Applicants, or provide an opportunity for manipulative allocation of any of Applicants' expenses and profits, (2) effect control of any Applicant, or (3) given the currently widespread use of deferred compensation agreements, confuse Applicants' investors, make it difficult for them to value Applicants' shares, or convey a false impression of safety.

Applicants further submit that they should be exempted from the provisions

of section 22(f) of the Act because that section was designed only to bar those restrictions on transferability or negotiability either not disclosed to the holders of the subject security, or expressly prohibited by Commission rule or regulation. On the contrary, the restrictions on transferability of trustees' benefits would be clearly set forth in the Agreements, would primarily benefit the trustees, and assertedly would not effect adversely the interests of the trustees or the shareholders of any Applicant.

With respect to the exemption requested from section 22(g) of the Act, it is stated that the legislative history of the Act indicates that Congress was primarily concerned with the dilutive effect on the equity and voting power of the securities of an open-end company if such securities were issued for consideration not readily valued. Applicants' assert that their obligations to make payments under the Agreements should not be viewed as being "issued" for services, and that although fees that might become payable to a trustee would clearly be for services, any such fees would become payable independently of the Agreements. The Agreements would merely provide for deferral of payment of such fees and thus should be viewed as being undertaken, not in return for services, but in return for Applicants' not being required to pay such fees on a current basis.

With regard to the applicability of section 17(d) and Rule 17d–1 thereunder, Applicants submit that the Agreements do not possess profit-sharing characteristics within the meaning of paragraph (c) of Rule 17d–1, which defines "joint enterprise or other joint arrangement or profit-sharing plan" for purposes of the Rule. Under the Agreements, each Applicant will have the discretion to set aside cash to fund the general obligations accruing under the Agreements and may invest such cash in shares of Liquid Capital Income Trust. The income, gain, or loss on investments of the assets of Liquid Capital Income Trust would be received indirectly by a trustee through receipt thereof by the Deferred Fee Account; such receipt would, however, be identical in amount to the income, gain, or loss which would be received by a shareholder of Liquid Capital Income Trust whose shares were not held in the Deferred Fee Account. Applicants represent that as an affiliated person, the trustee would neither directly nor indirectly receive a benefit which would otherwise inure to Applicants or any of their shareholders, and that the Agreements would not, therefore, constitute a joint or joint and several participation by any Applicant with an affiliated person in a transaction on a basis different from or less advantageous than that of the affiliated person. Applicants contend that the use of Liquid Capital Income Trust's yield to determine the level of interest to be paid on amounts in Deferred Fee Accounts does not inherently differ from the use of the prime rate or another assumed rate of interest. Applicants represent that deferral of a trustee's fees in accordance with the Agreements will maintain the parties to the Agreements, viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis, and that payment of interest on deferred fees is necessary to prevent a trustee from being penalized by an election to defer fees. It is believed that the benefits to Applicants and their shareholders will outweigh any benefit that may be realized by any trustee individually.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 12, 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 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 Mangement, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17323 Filed 7–19–85; 8:45 am]

BILLING CODE 8010–01–M

SYNTHETIC FUELS CORPORATION

Revised Policy on Standards of Conduct

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Publication of Revised Policy on Standards of Conduct.

SUMMARY: This notice publishes the Corporation's revised Policy on Standards of Conduct, approved by the Corporation's Board of Directors on June 18, 1985.

FOR FURTHER INFORMATION CONTACT: John Roberts, Acting Ethics Officer, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6341.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel, Corporate and Litigation.

July 17, 1985.

Policy on Standards of Conduct—United States Snythetic Fuels Corporation

Approved and Adopted June 18, 1985.

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Part 1—General

Section 1. Purpose and Scope.

(a) The purpose of this Policy is to assure that the business of the United States Synthetic Fuels Corporation (the "Corporation") is conducted effectively, objectively, and without improper influence or the appearance thereof.

The Corporation expects that its Directors and Employees will exhibit courtesy, consideration, and promptness in all dealings with the public, with parties having business before the Corporation, and with government agencies. It is the intent of this Policy that Directors and Employees will avoid any action, whether or not specifically prohibited by this Policy, which might result in, or create the appearance of:

(1) Using Corporation office for private gain;

(2) Giving improper preferential treatment to any person;

(3) Impeding the efficiency and economy of the operations of the Corporation;

(4) Losing complete independence or impartiality of action;

(5) Making a Corporation decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Corporation.

(b) This Policy also implements for the Corporation:

(1) The same standards of ethical conduct and financial reporting as set forth in Executive Order 11222, pursuant to section 117(f) of the Energy Security Act (Pub. L. 96–294, as amended) (The "Act" or the "Energy Security Act");

(2) The financial disclosure provisions of the Ethics in Goverment Act of 1978, as amended (Pub. L. 95–521), made applicable to the Corporation by section 118(a) of the Energy Security Act;

(3) The regulations relating to the financial disclosure provisions of the Ethics in Government Act of 1978, as amended, issued by the Office of Personnel Managment (5 CFR Part 734);

(4) The provisions of section 207(a) of title 18 of the United States Code (and subsections (f), (h), and (j) of such section to the extend that they relate to section 207(a)) relating to post-employment prohibitions applicable to former Directors and Employees of the Corporation, pursuant to section 118(d) of the Energy Security Act; and

(5) The regulations relating to 18 U.S.C. 207(a) and subsection (f), (h), and (j) of said Section as they relate to 18 U.S.C. 207(a), issued by the Office of Personnel Managment. (5 CFR Part 737).

In addition, this Policy directs the attention of the Directors and Employees of the Corporation to certain important prohibitions and requirements imposed by the Energy Security Act and other laws of the United States. This Policy does not purport to reflect or enumerate all restrictions or requirements imposed by statutes, regulations or otherwise upon Corporation Directors and Employees and former Directors and Employees of the Corporation. The omission of a restatement of or a reference to any restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable in accordance with its own terms.

(c) It is expected that the provisions of this Policy will be observed and administered in a manner which is consistent with both their spirit and their letter.

Section 2. Applicability.

Unless specifically provided otherwise, the provisions of this Policy apply to all Directors and Employees of the Corporation.

Section 3. Definitions.

Unless the context requires otherwise, the following definitions apply in this Policy:

"Act" and "Energy Security Act" mean the Energy Security Act (95 Stat. 611, Pub. L. 96–294) approved June 30, 1980, as amended.

"Board of Directors" and "Board" mean the Board of Directors of the Corporation.

"Chairman" means the Chairman of the Board of Directors or his delegate.

"Corporation" or the "United States Synthetic Fuels Corporation" means the corporation created by Subtitle B of Title I of the Act.

"Director" means a member of the Board of Directors.

"Employee" means a Corporation officer or a full-time or part-time employee of the Corporation or an employee of a Government agency assigned or detailed to the Corporation.

"Ethics Officer" means the person designated pursuant to section 5 hereof to administer this Policy and the provisions of Title II of the Ethics in Government Act within the Corporation.

"Participating Organization" means any entity listed on the list of Participating Organizations published from time to time by the Ethics Officer under section 6(b)(5) hereof, which list shall contain the name of each firm, corporation or other entity which has undertaken or formally proposes to undertake a synthetic fuels project involving the Corporation and any other entity participating in any material way in any such project, including but not limited to financial institutions, investment bankers, construction companies, engineering firms, supply contractors and attorneys.

Section 4. Corporation Ethics Program.

(a) The Corporation's ethics program shall consist generally of liaison with the Office of Government Ethics; review of financial disclosure reports; ethics counseling; and the administration of this Policy within the Corporation.

(b) The Ethics Officer under the direction of the Chairman is the Corporation official responsible for establishing, maintaining, and carrying out the Corporation's ethics program. To carry out this responsibility, sufficient resources (including investigative, audit, legal, and administrative staff as necessary) shall be made available to enable the Corporation to administer its program in a positive and effective manner.

Section 5. Designated Corporation Ethics Officer.

(a) By designation of the Chairman, a qualified attorney in the Office of the General Counsel of the Corporation shall serve as the Corporation's ethics

official and as such will administer the provisions of Title II of the Ethics in Government Act within the Corporation, coordinate and manage the Corporation's ethics program, and provide liaison to the Office of Government Ethics with regard to all aspects of the Corporation's ethics program.

(b) The Chairman may designate an alternate Corporation Ethics Officer who shall serve in an acting capacity in the absence of the designated Ethics Officer.

Section 6. Responsibilities and Administration.

(a) Each Employee shall:

(1) Read and comply with this Policy and the statutes and regulations referred to herein. Each Employee shall receive a copy of this Policy and acknowledge such receipt in writing prior to assuming duties at the Corporation or, if already employed, promptly after the effective date of the Policy;

(2) Be mindful of the high standards of integrity expected of them in all their activities, personal and official;

(3) Recognize that violation of the provisions of this policy or the laws referred to herein may subject them to dismissal, disciplinary action, and other penalties;

(4) Discuss with the Ethics Officer any problems arising out of this Policy.

(b) The Ethics Officer shall:

(1) Assure that required reports are promptly filed by all Directors and Employees;

(2) Review all reports submitted to him under the Policy;

(3) Notify Directors and Employees at that time of entrance on duty and periodically thereafter of the availability of counseling services and how and where these services are available;

(4) Bring the provisions of this Policy to the attention of each Director and Employee as circumstances warrant;

(5) Compile, maintain, and periodically update a list of all Participating Organizations and submit such list to the Vice President for Administration for distribution to all Directors and Employees; and

(6) Serve as the Corporation's designee to the Office of Government Ethics on matters within the jurisdiction of that office covered by this policy.

(c) The Director of Personnel shall:

(1) Distribute to prospective Employees, and departing Employees, those forms required to be submitted pursuant to this Policy; and

(2) Distribute a copy of this Policy to all prospective Employees at the time an offer of employment with the Corporation is made or, if possible, prior to making such offer.

Part 2—Conduct of Employees

Section 7. General.

(a) It is the policy of the Corporation not to interfere in the private lives of its Directors and Employees. However, in view of the public trust confided to the Corporation by the Energy Security Act, certain standards of conduct, some of which are statutory, are required to assure the proper performance of the Corporation's business and the maintenance of public confidence in the Corporation. The provisions of this section are designed to insure the fulfillment of that trust and the maintenance of that public confidence. Adherence to the provisions in this Section requires that Directors and Employees not do indirectly what would be improper to do directly.

(b) The attention of Directors and Employees is directed to the following statutory provisions:

(1) The prohibition contained in section 118(c) of the Act (42 U.S.C. 8714(c)) relating to a Director voting on any matter in which, to his or her knowledge, he or she has a financial interest (See section 17(g) hereof).

(2) The prohibition contained in section 118(d) of the Act (42 U.S.C. 8714(d)) relating to post-employment activities of former Directors and Employees of the Corporation (See section 20 hereof).

(3) The prohibition contained in section 161 of the Act (42 U.S.C. 8761) relating to false statements in connection with certain Corporation activities.

(4) The prohibition contained in section 162 of the Act (42 U.S.C. 8762) relating to forgery of Corporation instruments and agreements.

(5) The prohibition contained in section 163 of the Act (42 U.S.C. 8763) relating to misappropriation of funds and unauthorized activities in relation to the Corporation's business.

(6) The prohibition contained in section 164 of the Act (42 U.S.C. 8764) relating to conspiracy to commit acts made unlawful by sections 161, 162, or 163 of the Act.

(7) The prohibition contained in section 171(b) of the Act (42 U.S.C. 8771(b)) relating to the exercise of the Corporation's authorities.

(8) The prohibition contained in section 121(c) of the Act (42 U.S.C. 8717(c)) and 18 U.S.C. 1905 relating to the disclosure of confidential information.

(9) The prohibition contained in 18 U.S.C. 201 relating to the solicition or receipt of anything of value for or because of an official act.

(10) The prohibition contained in 18 U.S.C. 1719 relating to misuse of the franking privilege.

(11) The prohibition contained in 18 U.S.C. 600 relating to promises of employment or other benefit for political activity.

(12) The prohibition contained in 18 U.S.C. 601 relating to deprivation of employment or other benefit for political contribution.

(13) The prohibition contained in 18 U.S.C. 602 relating to solicitation of political contributions.

(14) The prohibition contained in 18 U.S.C. 603 relating to making political contributions.

Section 8. Gifts, Gratuities, Entertainment, and Favors.

(a) Acceptance of gifts, gratuties, entertainment, and favors from those who have or seek business with the Corporation may be a source of embarrassment to both the Corporation and the Director or Employee involved, may affect or appear to affect the objective judgment of the recipient, and may impair public confidence in the integrity of the Corporation's business relationships. Therefore, except as provided in subsection (b) of this Section, no Director or Employee shall knowingly solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any Participating Organization or any person who: (1) Has, or is seeking to obtain, contractual, or other business or financial relations with the Corporation; or (2) has interests that may be substantially affected by the performance or nonperformance of the Director's or Employee's official duty. In those cases in which the tender of any such gift, gratuity, or other thing of monetary value occurs under circumstances making the return thereof to the donor either impractical or impossible, the item involved shall be promptly delivered to the Vice President for Administration of the Corporation. All such items delivered to the Vice President shall be disposed of by him in accordance with instructions of the General Counsel of the Corporation.

(b) Notwithstanding the foregoing, a Director or Employee may:

(1) Accept gifts, entertainment, or favors given him as a result of obvious family or personal relationships (such as those between a parent, child, spouse, or other relative of the Director or Employee) when the circumstances make it clear that it is those

relationships rather than the business of the persons concerned which are the motivating factors;

(2) Accept food and refreshments of moderate value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where such Director or Employee is authorized by the Corporation to be in attendance;

(3) With approval of the Vice President to whom he or she reports and the Ethics Officer, accept food and refreshment, transportation, lodging, or subsistence from a consumer, environemntal, industrial, technical, trade, professional, or other association or similar group, in connection with the Employee's participation in a widely attended luncheon, dinner, seminar, conference, or similar gathering sponsored by the donor; provided that this exception shall not apply when the donor is a Participating Organization or an association or group composed principally of Participating Organizations;

(4) Accept loans from banks or other financial institutions or parties on customary term to finance proper and usual activities such as home mortgage loans;

(5) Accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value; and

(6) Accept transportation to inspect or investigate a location or facility, if under the circumstances it would be unduly inconvenient or inefficient to use other transportation.

Section 9. Outside Employment and Other Outside Activity.

(a) Employees are prohibited from holding employment with any Participating Organization and shall not engage in any other outside employment or outside activity not compatible with the full and proper discharge of the duties and responsibilities of their Corporation employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

(2) Outside employment which tends to impair the individual's mental or physical capacity to perform his or her Corporation duties and responsibilities in an acceptable manner, or which requires time or attention during the Employee's official work hours.

(b) Within the limitations imposed by this Section, Employees are encouraged to engage in teaching, lecturing and writing. However, a Director or Employee shall not, either for or without compensation, engage in teaching, lecturing or writing that is dependent on information obtained as a result of the Employee's Corporation employment, except: (1) Where that information has been made available to the general public or will be made available on request, or (2) when the Chairman gives written authorization for the use of non-public information on the basis that the use is in the public interest. Any such outside teaching, lecturing, and writing shall clearly distinguish the views of the Employee from those of the Corporation and its management. In addition, Directors and Employees shall not accept any compensation or honorarium for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Corporation.

(c) No Employee shall accept a fee from an outside source on account of a public appearance, speech, or lecture (1) if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the Employee, (2) if the public appearance, speech, or lecture was made during official working hours, or (3) if travel for the purpose of the public appearance, speech, or lecture was made at Corporation expense. In addition, no Employee shall accept a fee for the preparation, publication, or review of an article, story or book if it was prepared during official working hours or was part of the official duties of the Employee.

(d) This Section shall not preclude an Employee from:

(1) Participating in discussions and meetings of a professional nature and from receiving from outside sources (other than a Participating Organization) bona fide reimbursement for actual expenses of travel and subsistence incurred in connection with his or her participation if such Employee's participation is not a part of his official duties at the Corporation;

(2) Participating in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization.

Section 10. Political Activity.

(a) Although Corporation personnel are free to engage in political activity as a private matter, and while it is the policy of the Corporation not to interfere in the private lives of its Directors and Employees, the public trust confided to the Corporation under the Energy Security Act, and the need to avoid any action that might adversely affect public confidence in the Corporation's operations require that special care be taken by all Directors and Employees to avoid any action that might be at odds with the ethical standards for the conduct of business established in section 1(a) of this Policy. Attention is also directed to the prohibition contained in section 8 of the Policy relating to gifts, gratuities, entertainment, and favors. This prohibition is not limited to the solicitation and acceptance of personal gifts, and includes the solicitation and acceptance of any thing of monetary value (including services) on behalf of another, including contributions to political organizations. Such solicitations from Participating Organizations are prohibited. All Directors and Employees shall also remain alert to and comply with the statutory standards of conduct based on general law referenced in section 7(b) of the Policy relating to prohibited political activity. The referenced statutes include section 600 of title 18 of the United States Code, which makes it a federal offense for anyone to promise a benefit made possible by an Act of Congress, or any special consideration in obtaining such benefit, as consideration for any political activity or the support of or opposition to any candidate or political party in connection with any general or primary election, or political convention.

Section 11. Confidential Information.

(a) Section 163(a)(4) of the Act makes it a criminal offense for anyone to give to any person any unauthorized information concerning any future action or plan of the Corporation, or having such information to invest or speculate, directly or indirectly, in the securities or property of any company, bank, or corporation receiving financial assistance from the Corporation. Criminal statutes also prohibit a Director or Employee from disclosing, other than as provided by law, confidential business information obtained through his employment (section 121(c) of the Act, and 18 U.S.C. 1905).

(b) A Corporation Director or Employee shall not make use or give the appearance of making use, or permit others to make use or give the appearance of making use, of Corporation information not made available to the general public, for the purpose of furthering a private interest.

(c) As a result of their official duties, Directors and Employees will frequently

have access to business information of a confidential nature, including commercial, financial, or proprietary data provided by companies seeking financial assistance from the Corporation. Such information is disclosed for official use within the Corporation and is made available for no other purpose than consideration of the financial assistance application or other Corporation matters. Where such confidential business information might be compromised in responding to outside inquiries from apparently authorized or legitimate sources, such as government agencies, these inquiries should be referred to the Director of Public Disclosure to determine whether the nature and circumstances of such inquiries justify disclosure of the particular information sought.

Section 12. Use of Corporation Property.

A Director or Employee shall not, directly or indirectly, use, or allow the use of, Corporation property of any kind, including property leased to the Corporation, for other than officially approved activities. A Director or Employee has a positive duty to protect and conserve Corporation property, including equipment, supplies, and other property entrusted or issued to him.

Section 13. Financial Integrity/ Gambling.

(a) *Personal Financial Integrity*—An Employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as federal, state, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as federal, state, and local taxes, and "in a proper and timely manner" means in a manner which the Chairman determines does not, under the circumstances, reflect adversely on the Corporation as an employer.

(b) *Gambling, Betting, and Lotteries*—An Employee shall not participate, while on Corporation owned or leased property, or while on duty for the Corporation, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing numbers slips or tickets.

Section 14. Courtesy.

An Employee shall conduct himself in a manner that will assure effective accomplishment of his responsibilities and must observe the requirements of courtesy, consideration, and promptness in dealing with those seeking the Corporation's assistance.

Section 15. Availability of Counseling.

Each Director or Employee may consult the Ethics Officer at any time during normal Corporation hours for counseling on problems raised by this Policy.

Section 16. Procedures and Remedial Action.

(a) Information or complaints from any source evidencing violations of the ethical standards and standards of conduct prescribed in this Policy, whether emanating from within or outside the Corporation, shall be brought to the attention of the Chairman, who shall take immediate action to resolve the matter. All such complaints or allegations shall be referred to the Ethics Officer, who shall review the same and advise the Chairman in writing whether the matter should be resolved by administrative action, is appropriate for investigation by the Inspector General, or should be referred to the Department of Justice for investigation. Any such information or complaint involving a Director or Officer of the Corporation shall be referred to the Board of Directors together with the Chairman's recommendation for appropriate action. Information which, following review, affords reasonable grounds to believe that there has been a violation of criminal law, shall be promptly referred to the Department of Justice for investigation.

(1) Administrative Sanctions—

(i) A violation by an Employee of the ethical standards and standards of conduct prescribed by this Policy may be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

(ii) When, after review of the report of the Ethics Officer and/or the report of the Inspector General, and after consideration of any explanation and information provided by the Employee, the Chairman decides that remedial action is required, he shall take appropriate disciplinary action against the Employee, which action may include, among others, oral admonishment, written reprimand, suspension, or termination of employment. When appropriate, the Chairman shall recommend to the Board of Directors the suspension or termination of employment of Officers. Disciplinary and other remedial action shall be effected in accordance with any applicable laws.

Part 3—Financial Interests, Prior Employment, and Similar Interests

Section 17. Restrictions Related to Employee Financial Interests, Prior Employment, and Similar Interests.

(a) The maintenance of public confidence in the Corporation requires that a Director or Employee not take any action which would constitute the use of his or her Corporation position to advance personal or private interests.

(b) After assuming an office or employment with the Corporation, a Director or Employee shall not acquire any financial interest in a Participating Organization while it is on the list of Participating Organizations maintained by the Ethics Officer pursuant to section 6(b)(5) above.

(c) Unless authorized to do so as provided hereafter in this Section, an Employee shall not participate personally and substantially as an Employee in a particular matter in which the employee knowingly has a financial interest or in which he or she participated personally and substantially prior to employment by the Corporation.

(d) For purposes of this Section—

(1) An Employee "participates" in a particular matter through decision, approval, disapproval, recommendations, evaluation, the rendering of advice, negotiation, investigation, implementation, or otherwise.

(2) "Particular matter" is any synthetic fuel project proposal or other application, request for determination, determination, proposal, agreement, contract, claim, controversy, or other similar matter under consideration within the Corporation.

(3) A "financial interest" of an Employee includes the financial interest of the Employee's spouse, dependent child, partner, or an organization (other than the Corporation) in which the Employee is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom the Employee is negotiating or has an arrangement concerning prospective employment. An Employee shall be deemed to be negotiating for prospetive employment upon an expression of interest in response to a solicitation for future employment by either the Employee or the person or organization.

(e) With the approval of the Chairman, the Ethics Officer may waive the restrictions of subsection (c) of this Section in a particular matter for an individual if the Ethics Officer determines in writing that the interest is

too remote or too inconsequential, or the prior participation was too insubstantial, to affect the integrity of the services which the Corporation may expect of the individual. This determination shall be made after consultation with the Vice President in charge of the Employee's work assignment. Where it appears that a conflict of interest would arise in other matters in which the Employee might in the future be involved in the performance of normal duties, the Ethics Officer will so advise the Chairman and appropriate action shall be taken.

(f) The Chairman may by rule waive the restrictions of subsection (c) of this Section for classes of financial interests which the Chairman determines are too remote or too inconsequential to affect the integrity of an Employee's services. The restrictions on the following financial interests are waived pursuant to this paragraph:

Financial interests in mutual funds, regulated investment companies or similarly constituted entities the portfolios of which are widely diversified, and similarly constituted commercially fungible entities.

(g) Procedures Applicable to Directors.

(1) Subsection 118(c) of the Act prohibits a Director from voting on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the Director's knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which the Director is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom the Director is negotiating or has any arrangement concerning prospective employment, has a financial interest. This prohibition shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(2) Prior to any meeting of the Board of Directors at which the Board is expected to vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, the Ethics Officer shall review the financial disclosure report filed with the Corporation by each Director and shall advise each Director in writing if any reported financial interest is within the purview of section 118(c) of the Act.

(3) If a Director has a financial interest within the purview of section 118(c)(1) of the Act and believes that the interest is too remote or too inconsequential to affect the integrity of his services for the Corporation in the particular matter on which the Board is scheduled to vote, he may request the Ethics Officer to evaluate the particular financial interest and make a recommendation to the Board of Directors as to whether, in his opinion, the financial interest in question is too remote or too inconsequential to affect the integrity of the Director's service within the meaning of section 18(c)(3) of the Act.

Part 4—Executive Personnel Financial Disclosure Requirements

Section 18. Financial Disclosure Requirements for Directors and Certain Employees.

(a) *Statutory.* Section 118(a) of the Act and Title II of the Ethics in Government Act of 1978, (the "1978 Act") (Pub. L. 95–521, as amended), require the Directors and certain Employees of the Corporation to disclose personal financial interests and a description of certain employment relationships in order to avoid potential conflicts of interest, and the appearance of such conflicts, which may arise as they carry out the duties of their positions. The 1978 Act directs the Office of Government Ethics ("OGE") to provide for the systematic review of the financial holdings of both current and prospective Directors and Employees. The Office of Personnel Management ("OPM"), on the recommendation of the Director of OGE, has promulgated regulations establishing the procedures for the filing, review, and public availability of the Financial Disclosure Report required under the 1978 Act. (5 CFR Part 734).

(b) *General Policy and Purpose.* The purpose of this Section is to implement the statutory requirements and to provide guidelines for those Directors and those Employees who are required to submit financial disclosure reports under the 1978 Act and the OPM regulations. Reference should be made to the Ethics Act and regulations for detailed statements of the law, definitions, exemptions, limitations, and illustrative examples (5 CFR 734.103).

Under Title II of the Ethics Act, Directors and Employees whose positions are compensated at a rate equivalent to or above that payable for the grade GS–16 of the Federal General Schedule under 5 U.S.C. 5332, are required to complete financial disclosure forms, disclosing any other employment relationships, any income received (other than from Corporation employment), assets, liabilities, and certain purchases, sales, exchanges, and gifts. These reports are not net worth statements. Only assets held as investments and certain other items must be reported. Items for personal use, such as a residence, a personal automobile or jewelry not held for sale need not be reported. Although the reports must be made available if requested by a member of the public, subject to compliance with certain procedures set out in the OPM regulations, they cannot be used for any commercial purpose, for establishing credit rating or, directly or indirectly, in the solicitation of money for any political, charitable or other purpose. In the event that a report is used by a person for one of these prohibited purposes, the Attorney General may institute a civil action against such person.

(c) *Persons Required to File—General Requirements for Filing.* Each Director and each Employee compensated at a rate equivalent to or above the rate payable for grade GS–16 of the General Schedule prescribed by 5 U.S.C. 5332, and any other Employee in a position determined by the Director of OGE to be of equal classification and certain others unless excluded pursuant to 5 CFR 734.203 (hereinafter referred to as a "reporting individual"), shall file a report in accordance with the following rules:

(1) A reporting individual who, during any calendar year, performs the duties of his or her office for more than sixty days shall file a report on or before May 15 of the succeeding year.

(2) Within thirty days of assuming a position or office at the Corporation, a reporting individual shall file a report, unless such individual

(a) Has left another position within the thirty days prior to the assumption of the Corporation position in which a report required by 5 CFR 734.201 has previously been filed, or

(b) Has already filed such a report as a nominee for the Corporation position.

(3) On or before the thirtieth day after termination of his or her Corporation employment, a reporting individual shall file a report for the period from the end of the calendar year with respect to which a report was last filed to the date on which the individual left such office or position. If the individual assumes employment within thirty days of leaving the Corporation in another

position or office in which the report is required to be filed pursuant to Title II of the 1978 Act, he or she need not file a report under this paragraph.

(4) The Ethics Officer may, for good cause shown, grant to any Employee or class of Employees an extension of up to 45 days. OGE may grant an additional extension of up to 45 days if it makes a determination, based upon the reporting indvidual's specific reasons which have been forwarded to OGE by the Ethics Officer along with his or her own comments on the request, that there is good cause shown for an extension.

(5) Any reporting individual who, as determined by the Ethics Officer, is not reasonably expected to perform the duties of his or her office for more than sixty days in a calendar year need not file a report.

(6) Notwithstanding the provisions of paragraph (5) of this Section, if the reporting individual does perform the duties of his or her office or position for more than sixty days in a calendar year, and (i) if such individual is a new entrant or nominee, he or she shall file a report within fifteen calendar days after the sixty-first day unless the individual has filed a request for a waiver which is subsequently granted or (ii) if such individual is terminating employment, he or she shall file a report required by paragraph (3) of this section.

(7) In unusual circumstances, the Director of OGE may grant a request for a waiver of any public reporting requirement otherwise applicable under this Section for a reporting individual who is reasonably expected to perform, or has performed, the duties of his or her office for less than 130 days in a calendar year. Such a determination will be made after OGE has received advice from the Corporation and shall be in accordance with the guidelines established in 5 CFR 734.205.

(d) *Contents of Reports.* The information required to be included in each report is fully described in the instructions accompanying the Executive Personnel Financial Disclosure Report (S.F. 278) prescribed by OGE and in regulations promulgated by OGE (5 CFR Part 734), which requirements are incorporated herein by reference. Directors and Employees are encouraged to consult with the Ethics Officer, as necessary, concerning such requirements.

(e) *Filing, Custody, Review.* A reporting individual shall file the report with the Ethics Officer of the Corporation, who shall note on the report or supplemental report the date it is received. The Ethics Officer shall submit the report of each Director, as well as his or her own report, to the Director of OGE after he or she has reviewed it (except that the Chairman or his delegate shall review the report of the Ethics Officer).

(f) The Corporation shall, within fifteen days after any report is received by the Ethics Officer, make each report filed with it under this Part available to the public by permitting inspection of such report by, or furnishing a copy of such report to, any person who makes a written application stating: (1) The person's name, occupation and address, (2) the name and address of any other person or organization on whose behalf the inspection or copy is requested, and (3) that such person is aware of the prohibitions on obtaining or using the report for (a) any unlawful purpose, (b) any commercial purpose, other than by news and communications media for dissemination to the general public, (c) determining or establishing the individual's credit rating, or (d) use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. The Corporation may require a reasonable fee to be paid which is necessary to recover the direct cost of reproduction or mailing of such report, or may waive or reduce the fee if the Corporation determines that such waiver or reduction is in the public interest.

All reports shall be retained by the Corporation for six years, during which time they shall be made available to the public as provided above. After the six-year period a report shall be destroyed, unless needed in an ongoing investigation.

(g) The Ethics Officer shall review each report within 60 days after the date of filing (or earlier if required by the expedited procedure of 5 CFR 734.604(c)) in order to determine that the individual is in compliance with applicable laws and regulations and that the interests or positions disclosed on the form do not violate any applicable statute or regulation. Such review shall be conducted pursuant to 5 CFR 734.604.

(h) The Chairman of the Corporation shall refer to the Attorney General the name of any individual he or she has reasonable cause to believe has willfully falsified or willfully failed to file information required to be reported and may take any appropriate personnel or other action in accordance with applicable law or Corporation policy against such individual.

Part 5—Financial Interests of Other Corporation Employees

Section 19. Financial Disclosure Statements.

(a) *Filing Requirement.* To the extent they are not covered by Part 4 of these Standards of Conduct (which implements the financial disclosure provisions of title II of the Ethics in Government Act of 1978) statements of employment and financial interests shall also be submitted by:

(1) Each Corporation employee whose position is compensated at or above the pay level for GS–13 under section 5332 of Title 5, United States Code, the incumbent of which is responsible for making a Corporation decision or taking a Corporation action in regard to:

(i) Contracting or procurement;

(ii) Administering or monitoring a financial assistance agreement;

(iii) Regulating or auditing a private or other non-federal enterprise; or

(iv) Other activities where the decision or action has an economic impact on the interests of any other non-federal enterprise;

(2) Each Corporation employee whose position is compensated at a rate equivalent to that payable for Grade GS–13 or above of the General Schedule established by Chapter 53 of Title 5 of the United States Code who occupies a position the basic duties and responsibilities of which consist of the investigation, evaluation, negotiation, administration, or implementation of any synthetic fuels project formally proposed to the Corporation or the preparation of the comprehensive strategy for a national synthetic fuels development program to be recommended to the Congress by the Corporation;

(3) Such other employees who are in positions which the Chairman determines require the incumbent to report employment and financial interests in order to carry out the purposes of law, Executive Order 11222 of May 8, 1965, this Part 5 or any other Corporation regulations.

(4) Notwithstanding paragraph (1) above, employees in positions which meet the criteria of paragraph (1) may be excluded from the reporting requirement when the Chairman determines that:

(i) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts of interest situation is remote; or

(ii) The duties of a position are at such a level of responsibility that the submission of a statement of employment anf financial interests is

not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the duties of the position on the integrity of the Corporation.

(5) An employee is not required to submit in a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civic or political organization or a similar organization and not conducted as a business enterprise. For the purpose of this Section, educational and other institutions doing research and development or related work involving contracts with the Corporation are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(b) *Time and Place for Submission.* The statements referred to in this Section shall be submitted to the Ethics Officer. An Employee who, after the effective date of this Policy, is appointed to a position requiring submission of such statement, shall submit such statement within 30 days after appointment. Each covered Employee who previously submitted any such statement shall submit a supplementary statement on or before June 30 of each succeeding year, regardless of whether or not there were occurrences which require changes in, or additions to, information previously submitted.

(c) *Form of Statements.* Statements of employment and financial interests shall be submitted on a standard form "Confidential Statement of Employment and Financial Interests", copies of which are available in the Personnel Office of the Corporation.

The following rules shall be observed in preparing the statements:

(1) The interest, if any, of a spouse, minor child, or other member of the Employee's immediate household is considered to be an interest of the Employee. For the purpose of this Section, "member of an Employee's immediate household" means those blood relations who are residents of the Employee's household.

(2) If any information required to be included on a "Confidential Statement of Employment and Financial Interests" or supplementary statement, including holdings placed in trust, is not known to the Employee but is known to another person, the Employee shall request that other person to submit information on his behalf.

(3) An employee is not required to submit in a "Confidential Statement of Employment and Financial Interests" or supplementary statement any information relating to the Employee's connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civic or political organization or a similar organization not conducted as a business enterprise.

(d) *Confidentiality of Employees' Statements.* The Corporation shall hold each Confidential Statement of Employment and Financial Interests, and each supplementary statement, filed under this Section in confidence. To insure this confidentiality, the Ethics Officer is designated to review and retain the statements, and shall be responsible for the maintenance of the statements in confidence, and he shall not allow access to, or allow information to be disclosed from a statement except as necessary to carry out the purpose of this section. The Corporation shall not disclose information from a statement except as the Chairman may determine for good cause shown. All statements filed under this Section shall be retained by the Corporation for six years, after which period a statement shall be destroyed, unless needed in an ongoing investigation.

(e) *Effect of Employees' Statements on Other Requirements.* The statements required by this Section are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law or regulation. The submission of a statement or supplementary statement by an Employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law or this Policy.

(f) *Review of Statements and Remedial Action.* All statements submitted under this Section shall be reviewed by the Ethics Officer. If, in the judgment of the Ethics Officer, any statement discloses a conflict of interest, or an apparent or potential conflict of interest between the interests of the Employee and the performance of such Employee's duties at the Corporation, the Ethics Officer shall consult with such Employee and shall take such action as the Ethics Officer deems appropriate to resolve such conflict, or apparent or potential conflict. If the Ethics Officer is unable to resolve the situation, he shall report the matter to the Chairman who shall then take appropriate remedial action to end such conflict or potential conflict, or apparent conflict. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Disqualification for a particular assignment;

(3) Divestment by the Employee of his conflicting interest; or

(4) Disciplinary action.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws and regulations.

(g) *Exclusions From Reporting Requirements.* (1) Any Employee who considers that his or her position has been improperly included among those requiring the submission of the statements required by this Section may submit the matter for review by the Ethics Officer.

(2) Employees in positions that meet the criteria in subsection (a) of this Section may be excluded from the reporting requirements of this Section if the Chairman determines that:

(a) The duties of a position are at such a level of responsibility that the likelihood of the incumbent's involvement in a conflict of interest situation is remote; or

(b) The duties of a position are at such level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the duties of the position on the integrity of the Corporation.

Part 6—Post-Employment Conflicts of Interest

Section 20. Post-Employment Conflicts of Interest.

(a) *Statutory.* Sections 118(b) and 118(d) of the Act relate to post-employment activities of Directors and Employees. Section 118(b) applies to former federal employees employed by the Corporation and provides that the laws governing post-federal employment shall not apply to them while acting on behalf of the Corporation. Section 118(d) provides that section 207(a) of Title 18 of the United States Code (and subsections (f), (h), and (j) of such Section to the extent they relate to subsection (a)) shall apply to former Directors and Employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government, and also provides that section 207(a) shall apply to the Corporation as if it were an agency of the executive branch of the United States Government. In addition, under the Ethics in Government Act of 1978 the Office of Government Ethics within the Office of Personnel Management has supervisory jurisdiction over the administration of subsection (j) of

section 207 throughout the Government. Pursuant to the 1978 Act, the OPM has, on the recommendation of the Director of OGE and in consultation with the Attorney General, issued regulations in 5 CFR Part 737 to guide agencies (including the Corporation) in exercising the administrative enforcement authority contained in section 18 U.S.C. 207(j), and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207(a) is the exclusive responsibility of the Attorney General.

(b) *Purpose.* It is the purpose of this Section to provide guidelines for Directors and Employees within the framework of 18 U.S.C. 207(a) and the OPM regulations. Reference should be made to the regulations, and the Ethics Officer should be consulted, for detailed statements of the law, definitions, exemptions, limitations and illustrative examples.

(c) *Guidelines.* The statute bars certain acts by former Directors and Employees, which may reasonably give the appearance of making unfair use of prior Corporation employment and affiliations. It does not, however, bar any former Director or Employee, regardless of rank, from employment with any private or public employer after he or she has left the Corporation's employ. Nor does it bar employment even on a particular matter in which the former Director or Employee had major official involvement except in certain circumstances involving persons engaged in advocacy. Rather, the specific prohibitions arise from a combination of the following factors which in any given situation may include the following: (1) The nature and extent of the involvement in a particular matter by the individual while employed by the Corporation, (2) the identity of the particular matter with which the individual dealt while employed by the Corporation with the same matter with respect to which he or she may represent others after leaving the Corporation, (3) the manner in which the former Director of Employee appears before or communicates with the Corporation or the U.S. Government, and (4) the position occupied by the individual while in the Corporation's employ.

(d) Permanent restriction against any former Director or Employee acting as representative as to a particular matter in which the Director or Employee personally and substantially participated.

(1) The Prohibition of 18 U.S.C. 207(a). No former Director or Employee after terminating employment with the Corporation shall knowingly act as agent or attorney for, or otherwise represent any other person, in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person: (1) To the Corporation or otherwise to the United States, (2) in connection with any particular matter involving a specific party, and (3) in which matter such Director or Employee participated personally and substantially while with the Corporation.

(2) Pertinent combinations of factors involved in this prohibition include the following:

(a) Since the prohibition has no time limit, it raises a permanent bar to the proscribed activity;

(b) The former Director or Employee is prohibited from acting as agent or attorney for any other person, but not for himself;

(c) It prohibits representation by an "appearance" even if only in a technical procedural sense regardless of physical presence;

(d) It also prohibits any communication with intent to influence;

(e) The prohibition against an appearance or communication extends to other departments, agencies and courts of the United States and is not limited to the Corporation;

(f) The representation by the former Director or Employee must be in connection with a particular matter involving specific parties; and

(g) The particular matter must be one in which the former Director or Employee participated personally and subsantially while in the Corporation's employ.

(3) The prohibition in paragraph (1) of this subsection shall not apply to:

(a) Any appearance, attendance, or communication by a former Director or Employee who is employed by and acting on behalf of the United States; or

(b) Any appearance or communication by the individual where such appearance or communication is made in response to a subpoena, or concerns any matter of an exclusively personal and individual nature such as pension benefits.

(e) *Exemption for persons with special qualifications.* (1) A former Director or Employee may be exempted from the prohibitions of 18 U.S.C. 207(a) and this Section if the Chairman, in consultation with the Director of OGE, executes a certification published in the **Federal Register** that such individual has outstanding qualifications in a scientific, technological, or other technical discipline and is acting with respect to a particular matter which requires such qualifications and that the national interest would be served by such individual's participation.

(2) This exemption shall be used only in instances where the former Director or Employee's services are needed on so continuous and comprehensive a basis that other procedures for the communication of technical information designed to isolate the individual from other aspects of the matter would burdensome and impractical.

(3) The exemption shall be effective upon the execution of the certification required by paragraph (1), provided that it is transmitted to the **Federal Register** for publication.

(f) *Testimony and statements under oath or subject to penalty of perjury.* A former Corporation Director or Employee may make any statement required to be made under oath or subject to penalty of perjury.

(g) *Administrative enforcement.*—(1) *Information of Violation.* On receipt of information regarding a possible violation of 18 U.S.C. 207(a) and after determining that such information appears substantiated, the Chairman, or the Ethics Officer, if so directed by the Chairman, shall expeditiously provide such information along with any comments on pertinent Corporation policy to the Director of the OGE and to the Criminal Division, Department of Justice. Any continuing investigation by the Corporation on administrative action shall be coordinated with the Department of Justice to avoid prejudicing criminal proceedings unless the Department of Justice advises the Corporation that it does not intend to initiate criminal prosecution (18 U.S.C. 207, 5 CFR 737.27).

(2) *Initiation of Administrative Proceedings.* Whenever the Corporation has determined after appropriate review that there is reasonable cause to believe that a former Director or Employee has violated any of the provisions of 18 U.S.C. 207(a) or 5 CFR Part 737, it may initiate an administrative disciplinary proceeding by providing the former Director or Employee with notice as defined in the statute. Prior to a determination of sufficient cause to initiate an administrative disciplinary hearing, all records under the Corporation's control relating to allegations of a violation shall be confidential, subject to applicable law (18 U.S.C. 207, 5 CFR 737.27).

(3) *Notice and Hearing.* The notice of an administrative disciplinary proceeding and any hearing pursuant to such notice requested by the former Director or Employee shall follow the

procedures set forth in 5 CFR 737.27(a)(3), (4), (5), (6), (7) and (8).

(4) *Administrative Sanctions.* Actions which may be taken by the Corporation in the case of an individual who is found in violation of 18 U.S.C. 207(a) or 5 CFR Part 737, after a final administrative decision, or who failed to request a hearing after receiving adequate notice, include: (1) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Corporation on any matter of business for a period not to exceed five years, which may be accomplished by directing Corporation Employees to refuse to participate in such appearance or to accept any such communications, or (2) taking other appropriate desciplinary action.

Part 7—Procedures and Standards of Conduct Applicable to Consultants

Section 21. Procedures Applicable to Consultants.

(a) This Section sets forth procedures which shall be observed in appointing and utilizing consultants.

(1) All individuals and organizations retained to perform consulting services for the Corporation shall be required to read the "Standards of Conduct for Consultants" set forth in subsection (b) of this Section.

(2) Prior to appointment or retention prospective consultants shall be required to make disclosure of any financial interest in, any affiliation with any person, firm, or organization listed on the list of Participating Organizations published by the Ethics Officer pursuant to section 6(b)(5) of this Policy. "Affiliation" includes, but is not limited to service as an employee, officer, member, owner, director, trustee, advisor, or consultant.

(3) No consultant having any financial interest in or affiliation with any Participating Organization shall be retained by the Corporation, unless the Ethics Officer determines in writing: (1) That the financial interest or affiliation is too remote or too inconsequential to affect the integrity of the services which the Corporation may expect from the consultant or (2) that satsifactory arrangements have been made to obviate any conflicts of interest on the part of such consultant. This detemination shall be made after consultation with the Employee proposing retention of the consultant.

(4) Each individual who provides or is expected to provide services on a full-time, part-time, or intermittent basis as a staff consultant on more than 60 days during any perod of 365 consecutive days shall submit to the Corporation for review by the Ethics Officer a statement of employment and financial interests in accordance with section 19 of this Policy, and shall keep such statement current throughout his or her employment with the Corporation by the submission of annual statements.

(5) The Ethics Officer shall advise those authorizing the services of consultants of the requirements of this section, and each Officer of the Corporation shall observe such requirements in engaging consultant services for the Corporation.

(b) *Standards of Conduct for Consultants.* The following is intended for the guidance of consultants retained to provide services to the Corporation.

(1) *Inside information.* A consultant must conduct himself in a manner devoid of the slightest suggestion that he is exploiting his Corporation consultancy for private advantage. Thus, a consultant must not, on the basis of any inside information gained in the course of his activities with the Corporation invest or recommend investment in any commodities, land or securities. Moreover, he should be careful in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of his activities with the Corporation.

(2) It is important for a consultant to have access to Corporation data pertinent to this duties and to maintain familiarity with the Corporation's plans and programs and the requirements thereof, within the area of his responsibility. Where such data have been made generally available to the public, there is generally no impropriety in a consultant's utilizing such information in the course of his non-Corporation activitites after it has become so available. However, a consultant may, in addition, acquire information which is not generally available to those outside the Corporation. In that event, he may not use such information for the benefit of a business or other entity by which he is employed or retained on in which he has a financial interest.

(3) Consultants must also be alert to section 163(a)(4) of the Energy Security Act which makes it a criminal offense for anyone to give to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge to invest or speculate, directly or indirectly, in the securities or property of any company, bank, or corporation receiving financial assistance from the Corporation.

(4) Consultants and advisors are encouraged to confer with the Ethics Officer and other appropriate persons at the Corporation to assist them in the identification of information not generally available and in the resolution of any acutal or potential conflict between duties to the Corporation and to other employers or clients.

(5) Occasionally an individual who becomes a consultant to the Corporation may, subsequent to his designation as such, be requested by another party to act in a similar capacity. In some cases the request may give the appearance of being motivated by the desire of the other party to secure inside information. Where the consultant has reason to believe that the request for his services is so motivated, he should make a choice between acceptance of the tendered employment and continuation of his Corporation consultancy. In such circumstances he may not engaged in both.

(6) A consultant shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

(7) A staff consultant shall comply with section 8 of this Policy relating to the solicitation and acceptance of gifts and other things of monetary value from parties having business before the Corporation.

(c) *Statutory provisions.* The attention of all Corporation consultants is directed to the following statutory provisions:

(1) The prohibition contained in section 161 of the Act (42 U.S.C. 8761) relating to false statements in connection with certain Corporation activities.

(2) The prohibition contained in section 162 of the Act (42 U.S.C. 8762) relating to forgery of Corporation instruments and agreements.

(3) The prohibition contained in section 163 of the Act (42 U.S.C. 8763) relating to misappropriation of funds and unauthorized activities in relation to the Corporation's business.

(4) The prohibition contained in section 164 of the Act (42 U.S.C. 8764) relating to conspiracy to commit acts made unlawful by sections 161, 162, or 163 of the Act.

(5) The prohibition contained in section 171(b) of the Act (42 U.S.C. 8771(b)) relating to the exercise of the Corporation's authorities.

The prohibition contained in section 121(c) of the Act (42 U.S.C. 8717(c)) and

18 U.S.C. 1905 relating to the disclosure of confidential information.

(7) The prohibition contained in 18 U.S.C. 201 relating to the solicitation or receipt of anything of value for or because of an official act.

(8) The prohibition contained in 18 U.S.C. 1719 relating to misuse of the franking privilege.

United States Synthetic Fuels Corporation.

Dated: July 12, 1985.

Edward E. Noble,

Chairman of the Board.

[FR Doc. 85-17356 Filed 7-19-85; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP85-11; Notice 1]

California Strolee, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

California Strolee, Inc., of Rancho Dominguez, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.213, Motor Vehicle Safety Standard No. 213, *Child Seating Systems*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of Receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.1 of Federal Motor Vehicle Safety Standard No. 213, requires that on front facing child restraint systems, the test dummy's torso shall be retained within the system and no portion of the test dummy's head shall pass through the vertical transverse plane that is 32 inches forward of a point Z on the standard seat assembly, *et seq.*

In periodic testing of their production, the petitioner found that one of its booster seat component suppliers had changed the type of plastic used in molding the bolster, which helps retain the occupant and spreads the chest loads over a wider area. Strolee states that approximately 4,367 units of its Number 605 booster seat shields were produced with the wrong polymer formulation by its supplier, causing cracking and excessive head excursion. In testing conducted by the petitioner, the head excursion was beyond the 32 inch maximum allowed by the standard. Test results, Table I, show a maximum excursion of 1.5" above the limit imposed by the standard.

TABLE 1.—TEST SPECIFICATIONS AND RESULTS

Date	Head excursion (32 in maximum)	Knee excursion (36 inch maximum)	Head injury criterion (1,000 maximum)	Chest peak G's (60 G's maximum)
Apr. 23, 1985	33.5	29.2	455	36
May 2, 1985	32.9	27.7	306	29
May 2, 1985	31.8	26.5	384	28
May 2, 1985	31.7	27.9	306	30
May 2, 1985	32.7	27.1	585	29
May 9, 1985	30.5	26.9	312	15
May 9, 1985	31.2	28.1	434	13

Paragraphs S5.1.1 of the standard requires that, "each child seat restraint system shall: (a) exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than ¼ inch or surfaces with protrusions greater tha ⅜ inch above the immediate adjacent surrounding contactable surface of any structural element of the system;"

Strolee states that, "in all of these tests, the child model remained within the unit and the cracks referred to did produce separation of the product. In sum, for the product run with the different plastic, at some speeds, a slightly excessive head excursion was observed, but the unit protected the child well within required ranges on other standards and held the child within the unit itself."

The petitioner indicated that cracking did not occur at speeds below 28 miles per hour, and that 28 mph appears to be the threshold for excessive head excursion.

"For the reasons set forth herein, having quickly stopped production and shipping of the units manufactured with the questionable plastic, and given the fact that even the questionable plastic, when subjected to the range of tests described above, generally performed in a fashion protective of the child, and within standards, Strolee petitions for a determination that the condition noted herein, while sometime producing a noncompliance with the head excursion portions of Motor Vehicle Standard No. 213, is inconsequential."

Interested persons are invited to submit written data, views and arguments on the petition of Strolee of California described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 21, 1985.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 17, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-17308 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 16, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtaind by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collectios should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Financial Management Service

OMB Number: 1510-0019
Form Number: TFS 1133
Type of Review: Extension
Title: Claim Against the United States for the Proceeds of a Government Check
Clearance Officer: Douglas Lewis (202) 287-4500, Financial Management Service, Room 163, Liberty Loan Building, 401 14th Street, NW., Washington, D.C. 20228
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

OMB Number: 1545-0058

Form Number: IRS Form 1028
Type of Review: Extension
Title: Application for Recognition of Exemption Under Section 521 of the International Revenue Code (Farmers' Cooperatives)
OMB Number: 1545–0092
Form Number: IRS Form 1041 and related Schedules D, J and K–1
Type of Review: Revision
Title: U.S. Fiduciary Income Tax Return—Capital Gains and Losses—Trust Allocation of an Accumulation Distribution—Beneficiary's Share of Income, Deductions, Credits, etc.
OMB Number: 1545–0094
Form Number: IRS Form 1041–A
Type of Review: Revision
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts
OMB Number: 1545–0096
Form Number: IRS Form 1042/1042S
Type of Review: Revision
Title: Annual Withholding Tax Return for U.S. Income of Foreign Persons and Income Subject to Withholding Under Chapter 3, Internal Revenue Code
OMB Number: 1545–0184
Form Number: IRS Form 4797
Type of Review: Revision
Title: Supplemental Schedule of Gains and Losses
OMB Number: 1545–0383
Form Number: IRS Form 6560
Type of Review: Extension
Title: Employer Summary of Form W–2 Magnetic Media Wage Information
Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,
Departmental Reports Management Office.

[FR Doc. 85–17276 Filed 7–19–85; 8:45 am]
BILLING CODE 1810–25–M

UNITED STATES INFORMATION AGENCY

A Grants Program for Private Not-for-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

The United States Information Agency is interested in working cooperatively with private sector organizations and is requesting proposals (deadline August 25, 1985) for the following program:

USIA African Regional Communication Project

Summary

USIA plans to support a pilot exchange program for Deans and Professors of Journalism from francophone Africa to familiarize them with journalism education at both the theoretical and practical level in the United States. The twenty-one to twenty-eight day program will take place sometime between November 1985 and April 1986, the precise period to be determined in consultation with ESIJY and CESTI (see following paragraph).

Background

As part of the United States government's commitment to sponsor programs for journalists, USIA will support a number of exchanges designed to provide project participants with non-ideological professional experience in communications. These USIA designed activities are intended to focus on the establishment of bilateral or regional programs for communication training and on the improvement of communication technology in developing nations. While the role and level of development of the mass media vary from country to country within Africa, two existing regional schools of journalism provide training for many of the key journalists from francophone Africa. These two schools—one is located in Cameroon (International College of Journalism, ESIJY) and the other is in Senegal (Centre for Information Studies, CESTI)—have been selected as the most appropriate organizations with which to initiate this project. In addition, USIA has determined that the smaller national schools of journalism in Zaire and Burundi should also participate in this undertaking. With heightened interest in journalism throughout francophone Africa, USIA would like to include representatives from countries not currently conducting formal journalism training programs.

Project Proposal Information

All proposals will be judged on effectiveness in accomplishing the following project goals: (1) Providing African participants with an enhanced understanding of how U.S. universities train journalists; (2) reviewing the practice and philosophy of the free press in the U.S.; (3) highlighting the independence of the press; (4) outlining professional standards for writing, editing and reporting; (5) evaluating the impact of technological progress on the media; (6) offering opportunities for hands-on experience; (7) describing the various types of internship programs conducted in the U.S.

In addition to the seven factors listed above, proposals will be ranked on effectiveness in providing participants with an enhanced understanding of the distinctive features of the U.S. media; of what makes news in the U.S., including how news on Africa is reported; and of what conflicting pressures U.S. media operators and practitioners must confront. Also taken into consideration will be the submitting organization's demonstrated potential to design and implement programs as well as the proposal's cost effectiveness, institutional in-kind contributions, and minimal overhead.

Program Description

The program should include a week at the host institution for lectures and briefings, followed by a week of hands-on experience at differing media outlets in another metropolitan area and a final week or so in Washington and New York for on-site tours and exposure to national and international reporting by both private and government media outlets. USIA's Foreign Press Centers in Washington and New York will assist in the facilitation of this program in those two cities. In addition to professional meetings and experiences, weekend homestays for each individual participant are desirable. Since knowledge of English is not a requirement for participation in this project, French/English interpreters will be provided for all phases of the program.

Funding

Costs may include, but are not necessarily limited to, per diem (for 16 African participants and 6 additional escort/interpreters at a maximum of $100.00 per day); international travel from home country to U.S. and return (appx. $2,200 per participant); U.S. travel for all participants and escort/interpreters; single payment book/cultural allotment of $300 per

international participant and $150 cultural allotment for escort/interpreters; direct administrative expenditures; and minimal (if any) indirect costs as a percentage of administrative costs. (Salaries for escort/interpreters are covered separately by USIA and need for be part of your proposal.)

Applications Procedures

Applicants must submit ten (10) copies of the proposal to the address below. In order to be eligible for review the proposal must include: an abstract of approximately two pages; a narrative, not exceeding ten pages, outlining the proposed program; a list of the participating institutions and participating departments; a detailed line-item three column budget defining specific expenditures with information on in-kind and cash contributions to the program by the institution; and vitae on project managers

Timing

To be eligible for consideration, organizations *must* forward their proposals for receipt at USIA by COB August 25, 1985.

Guidance

Because of the competitive nature of this solicitation, guidance in proposal development from the Office of Private Sector Programs (E/P) will be restricted to technical issues (202–485–7319).

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (Attn: Initiative Programs), United States Information Agency, 301 4th Street, SW, Washington, D.C. 20547

Dated: July 17, 1985.

Albert Ball,

Deputy Director Office of Private Sector Programs.

[FR Doc. 85–17315 Filed 7–19–85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 140
Monday, July 22, 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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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:20 p.m. on Tuesday, July 16, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) consider bids submitted for the transfer of the insured deposits made in the Houston, Texas; Chicago, Illinois; Boston, Massachusetts; San Mateo, California; and Monterey Park, California, loan production offices of Golden Pacific National Bank, New York (Manhattan), New York, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, June 21, 1985;

(B) adopt a resolution: (1) Making funds available for the payment of insured deposits made in the Houston, Texas, loan production office of the closed Golden Pacific National Bank; (2) accepting the bid of Texas First National Bank, Houston, Texas, for the transfer of the insured deposits of the Houston, Texas, loan production office of the closed bank; and (3) designating Texas First National Bank as the agent for the Corporation for the payment of the insured deposits of the Houston, Texas, loan production office of the closed bank;

(C) adopt a resolution: (1) Making funds available for the payment of insured deposits made in the Monterey Park, California, loan production office of the closed Golden Pacific National Bank; (2) accepting the bid of OMNI Bank, National Association, Monterey Park, California, for the transfer of the insured deposits of the Monterey Park, California, loan production office of the closed bank; and (3) designating OMNI Bank, National Association as the agent for the Corporation for the payment of insured deposits in the Monterey Park, California, loan production office of the closed bank; and

(D) adopt a resolution making funds available for the payment of insured deposits made in the Chicago, Illinois; Boston, Massachusetts; and San Mateo, California, loan production offices of the closed Golden Pacific National Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting 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: July 17, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-17459 Filed 7-18-85; 3:48 p.m.]

BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: Thursday, July 25, 1985, at 2:00 p.m.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED: ARM Booklet Distribution.

Jeff Sconyers,

Secretary.

No. 17—July 17, 1985.

[FR Doc. 85-17275 Filed 7-18-85; 9:09 am]

BILLING CODE 6720-01-M

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TENNESSEE VALLEY AUTHORITY

[Meeting No. 1352]

TIME AND DATE: 9:00 a.m. (EDT), Wednesday, July 24, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 18, 1985.

Discussion Items

1. Preliminary rate review.

Action Item

A—Budget and Financing

A1. Adoption of supplemental resolution authorizing 1985 Series D power bonds.

A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1985 Series D power bonds.

A3. Amendment to fiscal year 1985 capital budget for the Power program—Replace component cooling system heat exchangers for Sequoyah Nuclear Plant.

B—Purchase Awards

B1. Invitation B4-952618 Reissue—Indefinite quantity term contract for TVA's annual requirement for high-content calcium carbonate crushed limestone for the wet scrubber system on units 1 and 2 at the Paradise Fossil Plant.

B2. Invitation 67-964403—Indefinite quantity term contract for high-integrity containers, cask rental and transportation for various nuclear plants.

B3. Amendment to indefinite quantity term contract 81P68-187408 with U.S. Ecology, Inc., to provide for continuation of low-level radioactive waste disposal services for TVA nuclear plants for an additional year and include services for Watts Bar Nuclear Plant.

B4. Invitation 64-955590—Indefinite quantity term contract for eddy current inspection services for various TVA nuclear plants.

C—Power Items

C1. Revision of limited interruptible power arrangements.

C2. Form agreement covering participation by distributors in TVA's redesigned Load Research Program.

*C3. Memorandum of understanding between TVA and the Department of the Army, governing power supply to Department of the Army's Redstone Arsenal.

D—Personnel Items

D1. Personal services contract with General Physics Corporation, Columbia, Maryland, for engineering and related support services at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

D2. Personal services contract with BCP Technical Services, New Orleans, Louisiana, for engineering and related support service at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

*Item approved by individual Board members. This would give formal ratification to Board's action.

D3. Personal services contract with Nuclear Energy Consultants, Inc., Rockville, Maryland, for engineering and related support service at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

E—Real Property Transactions

E1. Grant of permanent easement to the Eastern Band of Cherokee Indians, affecting two parcels of Tellico Reservoir land located in Monroe County, Tennessee, containing approximately 26.9 acres—Tract Nos. XTTELR–29RE and XTTELR–30RE; and authorization to change the land use designation for Tract No. XTTELR–29RE containing 13.5 acres.

E2. Sale of permanent easement to City of Kingsport, Tennessee, for the construction, operation, and maintenance of a pumping station and sewerline affecting approximately 0.6 acre of Fort Patrick Henry Dam Reservation property loacted in Sullivan County, Tennessee—Tract No. XFHR–33PS.

E3. Filing of condemnation cases.

F—Unclasifed

F1. Kentucky Reservoir Land Management Plan.

F2. Memorandum of understanding No. TV–67082A between Corps of Engineers, Nashville District, U.S. Department of the Army, and TVA covering arrangements for a cooperative effort for the production of navigation charts for the Tennessee River system.

F3. Contract No. TV–67201A between TVA and State of Alabama Department of Economic and Community Affairs for an economic development project in the Tennessee-Tombigbee Waterway area.

F4. Subagreements to general agreement (TV–50942A) between the Electric Power Research Institute and TVA covering arrangements for Pittsburgh No. 8-type coal test and high ash fusion coal test.

F5. Amendments to Retirement System rules and regulations and to Savings Plan terms and conditions; selection of additional investment managers; amendment to Commerce Union Bank trust agreement; and 1985 restated and amended trust agreement with American National Bank and Trust Company of Chicago.

F6. Changes in designation of certifying officers for vouchers and letter-of-credit transactions.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Informaton, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: July 17, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85–17392 Filed 7–18–85; 9:38 am]

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federal register

Monday
July 22, 1985

Part II

Department of Justice

48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852

Amendments to the Justice Acquisition Regulation (JAR) Concerning Competition in Contracting; Interim Rule and Request for Comments

DEPARTMENT OF JUSTICE

48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852

[Justice Acquisition Circular 85-1]

Amendments to the Justice Acquisition Regulation (JAR) Concerning Competition in Contracting

AGENCY: Justice Management Division, Office of the Procurement Executive, Justice.

ACTION: Interim rule and request for comments.

SUMMARY: This notice invites written comments to an interim rule to amend the Justice Acquisition Regulations, 48 CFR, Chapter 28. The purpose of the amendments is to implement the Competition in Contracting Act of 1984, the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the DOJ procurement reorganization plan authorized by the Attorney General February 21, 1985. This reorganization established in DOJ an Office of the Procurement Executive and placed under this office the procurement policy and contract review function. In addition, a new Part 2827, Patents, Data, and Copyrights, and associated clauses in Subpart 2852.227 are added. The effective date of this JAR amendment is the date of publication in the **Federal Register**. However, when a statute, the FAR, or Attorney General Order has an earlier effective date, the earlier date has precedence.

DATES: *Effective date:* July 22, 1985.

Comment date: Comments must be received on or before September 20, 1985. Please cite JAC 85-1 in all correspondence related to these amendments.

ADDRESS: Requests for copies of the interim regulations and comments should be addressed to the Office of the Procurement Executive, Department of Justice, Room 9000, 601 D Street, N.W., Washington, D.C. 10004. The regulations may be reviewed at the above address.

FOR FURTHER INFORMATION CONTACT: Wilson L. Silvis at the above address or telephone (202) 272-8356.

SUPPLEMENTARY INFORMATION: The determination is hereby made that these amendments must be issued as an interim or temporary regulation. The CICA is effective on April 1, 1985. All solicitations for bids or proposals must be in compliance with the Act. Any delay in issuing these amendments could impair DOJ's ability to provide procedural guidance necessary to properly implement the provisions of the CICA. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from review under Executive Order 12291 except for selected areas. Where applicable, these amendments have been reviewed in accordance with OMB Bulletin 85-7. 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. 60 et seq.).

List of Subjects in 48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852.

Government procurement.

W. Lawrence Wallace,

Acting Assistant Attorney General for Administration.

Accordingly, 48 CFR, Ch. 28 is amended as set forth herein. The authority citation for 48 CFR Parts 2801, 2804, 2807, 2808, 2809, 2810, 2814, 2815, 2830, 2831, 2835, and 2852 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATIONS SYSTEM

2801.301 [Amended]

1. Section 2801.301, paragraph (c) is amended by revising the last sentence in paragraph (c) to read "Authority to issue departmentwide acquisition regulations has been delegated by Attorney General Order 1085-85 to the Office of the Procurement Executive, subject to the review of the Assistant Attorney General of Administration."

2801.304 [Amended]

2. Section 2801.304, paragraph (b), first sentence is amended by removing the words "departmental Procurement Executive" and inserting the words "Office of the Procurement Executive."

3. Section 2801.304, paragraph (b) is amended by revising the last sentence in paragraph (b) to read "A record of the approved bureau policies and procedures will be maintained by the Office of the Procurement Executive."

2801.403 [Amended]

4. Section 2801.403, paragraph (a) is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

2801.601 [Amended]

5. Section 2801.601, is amended by revising the introductory text of paragraph (a) to read as follows:

(a) Pursuant to Attorney General Order 1085-85 the authority vested in the Attorney General with respect to contractual actions is delegated to the following officials:

* * * * *

6. Section 2801.602-70 is revised to read as follows:

2801.602-70 Office of the Procurement Executive.

(a) Prior to the execution of any contractual action in excess of $25,000 the contracting officer shall forward the proposed action to the Office of the Procurement Executive for review. Review by the Office of the Procurement Executive is applicable to all organization elements in the Department (OBDBs) with the exception of the FBI. It is the responsibility of the FBI's Contract Review Board to ensure that procurement actions are awarded in conformity with applicable statutes, regulations, and procedures. This exemption does not exempt the FBI from other oversight responsibilities of the Office of the Procurement Executive, including Procurement Executive review and approval of justifications for other than full and open competition on contracts over $10 million.

(b) For the purposes of this section contractual actions include all pre-award and post-award contractual actions over $25,000 including but not limited to modifications, ratification, and options but excluding orders from Federal Supply Schedules.

(c) Prior to submission to the Procurement Executive the legal office for each bureau-level procurement activity is responsible for reviewing and approving all such procurement actions for legal sufficiency.

(d) The Procurement Executive or his authorized representative shall have the authority to grant waivers from pre-award reviews for emergency requirements.

(1) Except for extreme emergencies, waiver requests must be in writing and include a detailed explanation as to why the waiver is required as well as information explaining reasons why the contract cannot be reviewed on a pre-award basis. Telephone waivers may be granted in extreme emergencies.

(2) All contract documents that are available at the time a waiver request is made must accompany the request for review. All available documents will be reviewed to assure that the award is legally sufficient prior to the granting of

a waiver. A post review of the completed contract file is required.

(3) Waivers will not be granted near the end of a fiscal year for the purpose of obligating year end funds.

(e) There is established, in accordance with Attorney General Order 1085–85, a Contract Appeals Panel to permit the head of a bureau-level procurement activity to appeal a decision of the Procurement Executive. This panel shall be composed of the Deputy Attorney General (who shall serve as Chairperson), the Associate Attorney General, and the Assistant Attorney General for Administration. The panel shall meet on an ad hoc basis as necessary and determined by the Chairperson.

(f) The Office of the Procurement Executive is authorized to postaudit any procurement transaction throughout the Department and direct that corrective actions be taken wherever deemed necessary, and to inspect at any time the procurement operations of the Justice Management Division, Federal Bureau of Investigation, Bureau of Prison, Federal Prison Industries, Inc., Immigration and Naturalization Service, Drug Enforcement Administration, Office of Justice Programs, the National Institute of Corrections, United States Marshals Service and other organizational elements exercising delegated procurement authority.

2804.601 [Amended]

7. Section 2804.601 (a) and (b) are amended by removing the words "Departmental Procurement Executive" and substituting "Office of the Procurement Executive."

2804.803–70 [Amended]

8. Section 2804.803–70 is amended by revising the Checklist for Invitation for Bids (2804.803–70(b)(1)), the RFP Checklist (2804.803–70(b)(2)), and the Contract File Award Checklist (2804.803–70(c)), and by adding a new Checklist for Modifications (2804.803–70(b)(3)).

(1) *IFB* preaward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments (FAR) 14.208		
3	Supervisory Solicitation Review (FAR 14.202-6).		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	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 201–23).		
	Requisitioner		
	Other:		
7	1Determinations and Findings		
	Cancellation after Opening (FAR 14.404–1).		
	Type of Contract		
	Rejection of Individual Bids (FAR 14.404–2(f)).		
	Use of Options (FAR 17.205 and 206).		
	Set-Aside for S/B, LSA (FAR 19.501(b) and 20.201).		
	Performance Bond (FAR 28.103–2).		
	Bid Samples (FAR 14.202–4(d))		
	Descriptive Literature (FAR 12.202–5(c))		
	Other:		
8	Synopsis (FAR 5.201)		
9	Pre-Solicitation Notice-Construction (FAR 36.302)		
10	Source List (FAR 14.205–1)		
11	Solicitation Requests		
12	Declination to Offer		
13	Clarification of Solicitation (requests and responses).		
14	Notice of Cancellation Before Opening (FAR 14.209).		
	Flap C		
15	Abstract of Bids—SF 1409 (FAR 14.403).		
16	Notice of Late Bids (FAR 14.304–2 and 304–3).		
17	Notice to Reject All Bids (FAR 14.404–3).		
18	Minor Informalities and Verification of Bids (FAR 14.405 and 406).		
19	Mistakes in Bids Before Award (FAR 14.406).		
20	Technical Evaluation—Brand Name or Equal.		
21	Determination of Price Reasonableness (FAR 14.407–2).		
22	Determination of Responsibility (FAR 9.104–1).		
23	Documentation of Award (formally SF–1036) (FAR 14.407–7).		
24	Miscellaneous Correspondence		
	Flap D		
25	Pre-Award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Other:		
26	Supervisory Review		
27	Legal Review (AG Order 1085–85).		
28	Office of the Procurement Executive Review (AG Order 1085–85).		
	Flap E		
29	Protests Before Award (FAR 14.407–8).		
30	FOIA Requests Before Award (FAR 24.2).		
	Flap F		
31	Unsuccessful Bids		
32	Successful Bid(s)		
33	Notice to Unsuccessful Bidders (FAR 15.1001(c)).		

(2) REP preward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments		
3	Supervisory Solicitation Review		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	Presolicitation Approvals		
	Micrographics (DOJ Order 2780.1).		
	AIS (DOJ Order 2830.1)		
	Consultant Services (DOJ Order 1304.3A).		
	Dept. of Labor Wage Determination (FAR 22.1008–1).		
	GSA Delegation of Proc. Authority (FIRMR 201–23).		
	SBA 8(a) Authority (FAR 19.8)		
	Requisitioner		
	Other:		
7	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Type of Contract		
	Cost Reimbursement (FAR 16.301–3).		
	Rejection of All Proposals (FAR 15.608(b)).		
	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) and 20.201).		
	Performance Bond (FAR 28.103–2).		
8	Sources Sought Synopsis		
	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
9	Source List		
10	Solicitation Requests		
11	Declination to Offer		
12	Correspondence—Inquiries and Responses.		
	Flap C		
13	Notice to Late Offerors (FAR 15.412(d)).		
14	Clarifications of Offers (FAR 15.601)		
	Questions		
	Responses		
15	Technical Evaluation Report (FAR 15.608(2)).		
16	Successful Proposal (Including Best and Final Offer).		
17	Cost/Price Analysis Including Audit (FAR 15.805).		
18	Competitive Range/Notice to Offeror (FAR 15.609, 15.609(c) and 15.1001(b)).		
19	Request for Best and Final Offers (FAR 15.611).		
20	Miscellaneous Correspondence		
	Flap D		
21	Summary of Negotiations (FAR 15.808).		
22	Pre-award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
23	Supervisory Preaward Review		
24	Legal Review (AG Order 1085–85)		
25	Office of the Procurement Executive Review (AG Order 1085–85).		
	Flap E		
26	Debriefing Report (FAR 15.1003)		
27	Protests Before Award (FAR 14.407–8).		

Tab No.	Document	In file	N/A
28	FOIA Requests Before Award (FAR 24.2).		
29	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		
	Flap F		
30	Unsuccessful Proposals (including Best and Final Offers) (file in separate folders, if necessary).		

(3) Modifications checklist:

Tab No.	Document	In File	N/A
1	Requisition (DOJ Order 2320.1) and Preliminary Notice to Exercise Option.		
2	Contract Status Record		
3	Presolicitation Approvals		
	Micrographics (DOJ Order 2780.1).		
	AIS (DOJ Order 2830.1		
	Wage Determination (FAR 22.1008-1).		
	GSA Delegation of Authority (FIRMR 201-23).		
	Requisitioner		
	Other:		
4	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
5	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
6	Solicitation Document or Change Order.		
7	Correspondence—Inquiries and Responses.		
8	Technical Evaluation Report (FAR 15.608(a)(2)).		
9	Proposal or Claim for Equitable Adjustment.		
10	Cost/Price Analysis including audit (FAR 15.805).		
11	Miscellaneous Correspondence		
12	Summary of Negotiations (FAR 15.608).		
13	Pre-Award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
14	Supervisory Preaward Review		
15	Legal Review (AG Order 1085-85).		
16	Office of the Procurement Executive Review (AG Order 1085-85).		
17	Transmittal Letter and Proposed Modification.		
18	Acknowledgement Letter		
19	Postaward Synopsis		
20	Modification Checklist		

(4) *Contract file, award checklist:*

Contractor: _____
Requirement: _____
Contract No.: _____
Contract Type: _____
Solicitation No.: _____

Document	Date filed	Cont. spec. initials
Flap A		
Item No.		
1 Contract Document/Modifications.	_____	_____
2. FPDS, Individual Contract Action Report (SF-279 and/or SF-279A).	_____	_____
3. PCS Data System Input Forms.	_____	_____
4. Award Distribution Checklist.	_____	_____
5. Award Checklist	_____	_____
Flap B		
Item No.		
6. Supporting Papers for Basic Contract.	_____	_____
—Award Synopsis (FAR 28.301).	_____	_____
—Performance Bond (FAR 5.103 and 53.301-25).	_____	_____
—Subcontracting Report (SF-294).	_____	_____
7. Protests After Award (FAR 14-407-8).	_____	_____
8. FOIA Requests After Award.	_____	_____
9. Transmittal/Acknowledgement Letters.	_____	_____
Flap C		
10. Supporting Papers for Modifications.	_____	_____
Flap D		
11. Vouchers and Related Correspondence.	_____	_____
Flap E		
12. Contractor's Reports	_____	_____
Flap F		
13. 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: _____

PART 2804—ADMINISTRATIVE MATTERS

9. Subpart 2804.70 is revised to read as follows:

Subpart 2804.70—Ratification of Unauthorized Contractual Commitments

Sec.
2804.7001 Ratification of unauthorized contract awards.
2804.7002 Request for ratification.

Subpart 2804.70—Ratification of Unauthorized Contractual Commitments

2804.7001 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 ratifications must be approved by the head of the contracting activity (HCA) as designated in 2801.601(a).

(b) The HCA may approve ratification of the unauthorized commitment by an authorized contracting officer if:

(1) Ratification is in the best interests of the Government;

(2) The unauthorized commitment is otherwise proper;

(3) The price is fair and reasonable; and

(4) Funds are available.

2804.7002 Request for ratification.

(a) The request for approval of a ratification must be submitted to the HCA in writing and shall include all relevant documents and records. The ratification file shall include, but not be limited to, a statement signed by the official who made the unauthorized commitment stating the facts leading up to the commitment, why and how the contractor was selected, why normal procedures were not followed, a description of the work performed, the current status of the work, and any price agreement. If the official who made the unauthorized commitment has left the agency or is otherwise no longer available, the contracting officer assigned the ratification action shall assemble the record and document the facts to the extent known, including identification of the official who made the unauthorized commitment and why he/she is not available.

(b) The contracting officer assigned the ratification action shall review the file to determine the adequacy of the facts and prepare a written recommendation as to whether the ratification action should be approved. This recommendation shall include:

(1) A determination of fair market value of the benefit received;

(2) A statement as to the availability of funds; and,

(3) Concurrence by the contracting activity's legal counsel as to whether the action should be ratified.

(c) The contracting officer shall forward the complete file as described in paragraphs (a) and (b) above as applicable to the HCA for approval. Following approval, the contracting officer shall prepare the appropriate contractual documents and when required by 2801.602-70(b) submit the contract for review by legal counsel and the Office of the Procurement Executive. If not approved, the HCA shall return the file with a written explanation and any recommendations.

(d) The HCA may delegate to subordinate individuals approval of ratification requests of $5,000 and below.

(e) Unauthorized commitments of Government funds are a serious matter

and in violation of Federal laws and regulations. In situations where suspected irregularities may involve fraud, other criminal misconduct, or other employee misconduct, the matter shall be forwarded to the Department's Office of Professional Responsibility.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

10. The title to Subchapter B is amended by removing the words "Acquisition Planning" and substituting in their place "Competition and Acquisition Planning." The title is relocated to the end of Part 4.

11. A new Part 2806 is added to read as follows:

PART 2806—COMPETITION REQUIREMENTS

Subpart 2806.5—Competition Advocates

Sec.
2806.501 Requirement.
2806.502 Duties and responsibilities.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(e); 28 CFR 0.75(j) and 0.76(j).

Subpart 2806.5—Competition Advocates

2806.501 Requirement.

As required by section 20 of the Office of Federal Procurement Policy Act, each executive agency must appoint an agency competition advocate and a competition advocate in each procuring activity of the executive agency. Accordingly:

(a) The competition advocate for DOJ will be located in the Office of the Procurement Executive. The official designated will not be the Procurement Executive but will occupy a senior level position in the office with department-wide responsibility for procurement matters.

(b) The agency head will appoint in each bureau an official to be the bureau activity competition advocate. The individuals designated may not be located in or be in direct supervision of the operational procurement activity.

2806.502 Duties and responsibilities.

(a) The duties and responsibilities of the competition advocates are set forth in FAR 6.502. The Department's Procurement Executive will provide guidance to the competition advocates in formulating plans, goals, and procedures to achieve the goals of enhancing competition and challenging barriers to full and open competition.

(b) *Responsibilities.* (1) Within 60 days following the end of the fiscal year each competition advocate in the procuring activities will submit to the agency competition advocate an annual report. This report will provide specific information and a summary of advocacy accomplishments during the fiscal year. The information provided, combined with other available data, will provide the basis for the report in paragraph (b)(3) of this section to be submitted to Congress by the agency head in accordance with section 21(a) of the Office of Federal Procurement Policy Act.

(2) Within 90 days following the end of the fiscal year the agency competition advocate shall submit to the Procurement Executive a report on the competition advocacy accomplishments throughout DOJ during the preceding year and plans for the next year.

(3) Annual reports will be submitted for the fiscal years 1985 (from April 1, 1985 to September 30, 1985), 1986, 1987, 1988 and 1989.

PART 2807—ACQUISITION PLANNING

2807.102 [Amended]

12. Section 2807.102, paragraph (b), last sentence, is amended by removing the letters "DOJ/PE" and adding "the Office of the Procurement Executive."

PART 2808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2808.802-70 [Amended]

13. Section 2808.802-70 is amended by removing the words "Information Systems Staff" and inserting in their place "General Services Staff, JMD."

2809.400 [Amended]

14. Section 2809.400, paragraph (b) is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

2809.470 [Amended]

15. Section 2809.470, paragraph (a)(4), is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

PART 2810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

2810.007 [Amended]

16. Section 2810.007, last sentence, is amended by removing the words "Procurement Executive" and inserting the words "Office of the Procurement Executive."

PART 2814—SEALED BIDDING

17. The title of Part 14 is amended by removing the words "Formal Advertising" and inserting in their place "Sealed Bidding."

2814.000 [Amended]

18. Section 2814.000 is amended by removing the words "formal advertising" and inserting in their place "sealed bidding."

PART 2815—CONTRACTING BY NEGOTIATION

Subpart 2815.1 [Removed]

19. Subpart 2815.1 is removed in its entirety.

Subpart 2815.3 [Removed]

20. Subpart 2815.3 is removed in its entirety.

Subpart 2815.8—Price Negotiation

2815.803-70 [Amended]

21. Section 2815.803-70 is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

22. A new Part 2827 is added to read as follows.

PART 2827—PATENTS, DATA, AND COPYRIGHTS

Subpart 2827.4—Rights in Data and Copyrights

Sec.
2827.400 Scope of subpart.
2827.401 Definitions.
2827.402 Policy.
2827.403 Procedures.
2827.404 Acquisition of data.
2827.405 Solicitation provisions and contract clauses.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c), 28 CFR 0.75(j) and 0.76(j).

Subpart 2827.4—Rights in Data and Copyrights

2827.400 Scope of subpart.

This subpart sets forth policies, procedures, and instructions with respect to: (a) rights in data and copyrights; and (b) requirements for data.

2827.401 Definitions.

"Computer software," as used in this subpart, means:

(1) Computer programs, i.e., any set of statements or instructions in any form of written programming language source code or machine-executable code that is capable of causing a machine with information processing capabilities to perform a particular result;

(2) Computer data bases, i.e., any form of information in written programming language source code or machine-executable code, other than computer programs;

(3) Computer supporting material, i.e., any material in lingual, pictorial,

schematic, or any other forms, that would permit the making of a computer program (e.g. flow charts) or that was created to aid the understanding, application, or use of a computer program (e.g., user instructions and manuals, installation and operational manuals, input and output forms, and technical documentation); and,

(4) Any updates or revisions to computer programs, computer data bases, or computer supporting material;

(5) But does not mean any data produced as a result of using computer programs, computer data bases, or computer supporting material delivered under a contract.

"Data," as used in this subpart, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or any financial, business, and management information required for contract administration purposes.

"Data first produced in the performance of this contract," as used in this subpart, means data the contractor created, in whole or in part, after the effective date of this contract.

"Created," as used in this subpart, has the same meaning as does that term in the Copyright Act (17 U.S.C. 101).

"Form, fit, and function data," as used in this subpart, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

"Limited rights," as used in this subpart, means the rights of the Government in limited rights data, as set forth in a Limited Rights Notice, if included in the data rights clause of the contract, or as otherwise provided in a collateral agreement incorporated in and made a part of the contract.

"Limited rights data," as used in this subpart, means data other than computer software, developed in whole at private expense, that embodies trade secrets.

"Restricted computer software," as used in this subpart, means computer software that is developed in whole at private expense and is a trade secret or copyrighted computer software.

"Restricted rights," as used in this subpart, means the rights of the Government in restricted computer software as set forth in a Restricted Rights Notice, if included in a data rights clause of the contract or as otherwise may be included or incorporated in the contract.

"Unlimited rights," as used in this subpart, means the right to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public without restriction, by sale or other transfer of ownership or by rental, lease or lending, perform publicly in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language source code or machine-executable code.

2827.402 Policy.

It is necessary for the departments and agencies, in order to carry out their missions and programs, to acquire or obtain access to many kinds of data produced during or used in the performance of their contracts. Such data may be required to: obtain competition among suppliers; fulfill certain responsibilities for disseminating and publishing the results of their activities; ensure appropriate utilization of the results of research, development, and demonstration activities; and meet other programmatic and statutory requirements. At the same time, the Government recognizes that its contractors may have a property right or other valid economic interest in certain data resulting from private investment, and that protection from unauthorized use and disclosure of this data is necessary in order to prevent the compromise of such property right or economic interest, avoid jeopardizing the contractor's commercial position, and maintain the Government's ability to obtain access to or use such data. The protection of this data by the Government is necessary to encourage qualified contractors to participate in Government programs and apply innovative concepts to such programs. The specific procedures and prescriptions for use of solicitation provisions and contract clauses set forth below are framed in light of the above considerations to strike a balance between the Government's needs and the contractor's property rights and economic interests. In instances where data developed during contractual performance is produced partially at Government expense and partially at private expense, the respective rights of the Government and the contractor, if not delineated elsewhere in the contract, shall be determined by negotiation on a case-by-case basis.

2827.403 Procedures.

(a) *General.* All contracts that require data be produced, furnished, or acquired must contain terms that delineate the respective rights and obligations of the Government and the contractor regarding the use, disclosure, modification, reproduction, preparation of derivative works, distribution of copies to the public, transfer and public performance and display of such data, except certain contracts resulting from sealed bidding that require only existing data (other than limited rights data and restricted computer software) to be delivered and reproduction rights are not needed for such data. As a general rule, the data rights clause at section 2852.227-70, Rights in Data-General, including Alternates I-V where determined appropriate by the contracting agency as discussed in paragraph (b) below, is to be used for this purpose. However, certain types of contracts, the particular subject matter of a contract, or the intended use of the data, may require the use of other clauses or no clause at all, as discussed in paragraphs (c) and (d) below.

(b) *Basic Rights in Data Clause.*—(1) *Summary.* The clause at 2852.227-70, Rights in Data-General, is structured to strike a balance between an agency's needs in carrying out its missions and programs and the contractor's needs to protect property rights and valid economic interests in certain data arising out of private investment. This clause enables the contractor to protect from unauthorized use and disclosure data that qualifies as limited rights data or restricted computer software (see paragraph (b)(2) below for an alternate definition of limited rights data). This clause also specifically delineates the categories or types of data that the Government is to acquire with unlimited rights (see paragraph (b)(3) below). The contractor may protect qualifying limited rights data and restricted computer software under this clause by either withholding such data from delivery to the Government; or when an agency has a need to obtain delivery of limited rights data or restricted computer software, by delivering such data with limited rights data or restricted rights with authorized notices on the data. (See paragraphs (b) (4) and (5) below.) In addition, this clause enables contractors to establish and/or maintain copyright protection for data first produced and/or delivered under the contract, subject to certain license rights in the Government. (See paragraph (b)(6) below.) This clause also includes procedures that apply when the Government requests

validation of proprietary data restrictions or questions whether notices on data are authorized (see paragraphs (b) (7) and (8) below) or when a contractor wishes to add or correct omitted or incorrect notices on data (see paragraph (b)(9) below); addresses the contractor's right to release, publish, or use certain data involved in contract performance (see paragraph (b)(10) below); and, provides for the possibility for the Government to inspect certain data at the contractor's facility (see paragraph (b)(11) below).

(2) *Alternate definition of limited rights data.* In the clause at 2852.227–70, Rights in Data-General, in order for data to qualify as limited rights data, in addition to being data that either embody a trade secret or are data that are commercial or financial and confidential or privileged, such data must also pertain to items, components, or processes developed at private expense, including minor modifications thereof. However, where appropriate, an agency may determine to adopt in the clause the alternate definition for limited rights data that does not require that such data pertain to items, components, or processes developed at private expense; but rather that the data that embody a trade secret or is commercial or financial and confidential or privileged be produced at private expense in order to qualify as limited rights data. As an example, this alternate definition may be used where the principal purpose of a contract does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or any anticipated follow-on contracts relating to the same subject matter). Other examples include contracts for market research and surveys, economic forecasts, socio-economic reports, educational material, health and safety information, management analysis, and related matters. This alternate definition of limited rights data may be adopted, where appropriate, by using the clause with its Alternate I.

(3) *Unlimited rights data.* Under the clause at 2852.227–70, Rights in Data-General, the Government acquires unlimited rights in the following data except as provided in paragraph (b)(6) below for copyrighted data: (i) Data first produced in the performance of a contract; (ii) form, fit, and function data delivered under contract; (iii) data (except as may be included with restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair delivered under a contract; and (iv) all other data delivered under the contract unless such data qualify as limited rights data or restricted computer software. If any of the foregoing data is published copyrighted data, the Government acquires it under a copyright license as set forth in paragraph (b)(6) below rather than with limited rights or restricted rights.

(4) *Protection of limited rights data.* (i) The contractor may protect data (other than unlimited rights data or published copyrighted data) that qualify as limited rights data under the clause at 2852.227–70, Rights in Data-General, by withholding such data from delivery and providing form, fit, and function data in lieu thereof; or, if the clause is used with its Alternate II and the Government specifies the delivery of the data, by delivering such data with limitations on their use and disclosure. These two modes of protection afforded the contractor (i.e., withhold or deliver with limited rights) are provided for in paragraph (h) of the clause at 2852.227–70, Rights in Data-General. Subparagraph (h)(1) of this clause allows the contractor to withhold limited rights data and provide form, fit, and function data in lieu thereof. Alternate II adds subparagraph (h)(2) to this clause to enable the Government selectively to obtain the delivery of withheld or withholdable data with limited rights. The limitations on the Government's right to use and disclose limited rights data when the clause is used with its Alternate II are set forth in a "Limited Rights Notice" that the contractor is required to affix to such data. The specific limitations in the Notice are described below.

(ii) Limited rights data delivered to the Government with the Limited Rights Notice contained in subparagraph (h)(2) (Alternate II) will not, without permission of the contractor, be used by the Government for purposes of manufacture, and will not be disclosed outside the Government except for certain limited purposes as may be set forth in the Notice, and then only if the Government makes the disclosure subject to prohibition against further use and disclosure by the recipient. The following are examples of specific purposes which may be selected by an agency and added to the Limited Rights Notice of subparagraph (h)(2) of the clause (Alternative II):

(A) Use by support service contractors.

(B) Evaluation by nongovernment evaluators.

(C) Use by other contractors participating in the Government's program of which this contract is a part, for information and use in connection with the work performed under their contracts.

(D) Emergency repair or overhaul work.

(E) Release to a foreign government, as the interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by such government.

(iii) As an aid in determining whether the clause should be used with its Alternate II, the provision at 2852.227–71, Notification of Limited Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 2852.227–70, Rights in Data-General. In addition, the need for Alternate II should be considered during the negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 2852.227–70, Rights in Data-General, without Alternate II does not preclude this Alternate from being used subsequently by amendment during contract performance should the need arise for delivery of limited rights data that have been withheld or identified as withholdable.

(5) *Protection of restricted computer software.* (i) If computer software qualifies as restricted computer software, the clause at 2852.227–70, Rights in Data-General, permits the contractor to protect such software by either withholding it from delivery and providing form, fit, and function data in lieu thereof; or if the clause is used with its Alternate III and the Government specifies delivery of the software, by delivering the software with restricted rights regarding its use, disclosure, and reproduction. The two modes of protection afforded the contractor (i.e., withhold or deliver with restricted rights) are provided for in paragraph (h) of the clause at 2852.227–70, Rights in Data-General. Subparagraph (h)(1) of the clause allows the contractor to withhold restricted computer software and provide form, fit, and function data in lieu thereof. Alternate III adds subparagraph (h)(3) to this clause to enable the Government selectively to obtain delivery of the withheld or withholdable computer software with restricted rights. The restrictions on the Government's rights to use, disclose, and reproduce restricted computer software when the clause is used with its Alternate III are set forth in a "Restricted Rights Notice" that the contractor is required to affix to such

computer software. When restricted computer software delivered with such Notice is published copy-righted computer software, it is acquired with a restricted copyright license, without disclosure prohibitions, as also set forth in the Notice. The specific restrictions in the Notice are set forth in paragraph (b)(5)(ii) below.

(ii) Restricted computer software delivered with the Restricted Rights Notice of subparagraph (h)(3) (Alternate III) will not be used or reproduced by the Government, or disclosed outside the Government, except that the computer software may be:

(A) Used, or copies for use in or with the computer for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(B) Used, or copies for use in or with a backup computer if the computer or computers for which it is acquired are inoperative;

(C) Reproduced for safekeeping (archives) or backup purposes;

(D) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of any derivative software incorporating restricted computer software are made subject to the same restricted rights; and,

(E) Disclosed and reproduced by support contractors or their subcontractors, subject to the same restrictions under which the Government acquired the software.

(iii) The restricted rights set forth in paragraph (b)(5)(ii) above are the minimum rights the Government normally obtains with restricted computer software and will automatically apply when such software is acquired under the Restricted Rights Notice of subparagraph (h)(3) (Alternate III) of the clause. However, either greater or lesser rights, consistent with the purposes and needs for which the software is to be acquired, may be specified in the contract. Any additions to, or limitations on, the restricted rights set forth in the Restricted Rights Notice of subparagraph (h)(3) of the clause are to be expressly stated in the contract; or, with approval of the contracting officer, in a collateral agreement incorporated in and made part of the contract. (See paragraph (d)(2) below.)

(iv) As an aid in determining whether the clause should be used with its Alternate III, the provision at 2852.227–71, Notification of Limited Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 2852.227–70, Rights in Data-General. In addition, the need for Alternate III should be considered during negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 2852.227–70, Rights in Data-General, without Alternate III does not preclude this Alternate from being used subsequently by amendment during contract performance, should the need arise for the delivery of restricted computer software that has been withheld or identified as withholdable.

(6) *Copyrighted data.*—(i) *Data first produced in the performance of a contract.* (A) In order to enhance the transfer or dissemination of information produced at Government expense, contractors may be permitted to establish claim to copyright subsisting in data first produced in the performance of work under a contract containing the clause at 2852.227–70, Rights in Data-General. This right is granted in subparagraph (c)(1) of the clause for any data first produced under the contract. Agencies may, however, specifically exclude items or categories of data from the right of the contractor to establish claim to copyright when appropriate; for example, where the data is to be disseminated in useful form by the Government. Also, agencies having programs for the transfer or dissemination of information resulting from its programs may, by use of the clause with its Alternate IV, include a substitute subparagraph (c)(1) in the clause to limit the right of the contractor granted in subparagraph (c)(1) to establish claim of copyright to scientific and technical articles based on or derived from work performed under the contract and published in academic, professional, or technical journals. However, when Alternate IV is used, permission may be granted to establish claim to copyright in all other data in accordance with the procedures set forth below.

(B) Usually permission for a contractor to establish claim to copyright for data first produced under the contract will be granted when copyright protection will enhance the appropriate transfer or dissemination of such data. The request for permission must be in writing, and may be made either at the time of contracting or subsequently during contract performance. It should identify the data involved or furnish a copy of the data for which permission is requested, as well as a statement as to the intended publication or dissemination media or other purpose for which copyright is desired. The request normally will be granted unless: (*1*) the data consist of a report that represents the official views of the agency or that the agency is required by statute to prepare; (*2*) the data are intended primarily for internal use by the Government; (*3*) the data are of the type that the agency itself distributes to the public under an established program; or (*4*) the Government determines that limitation on distribution of the data is in the national interest.

(C) Whenever a contractor establishes claim to copyright subsisting in data first produced in the performance of a contract, the Government normally is granted a paid-up, nonexclusive, irrevocable, worldwide license of unlimited rights for all such data, as set forth in subparagraph (c)(1) of the clause at 2852.227–70, Rights in Data-General, with the following exceptions: these rights do not include the right to license or sublicense or to have or to permit other persons to exercise those rights other than those on behalf of the Government. However, agencies may on a case-by-case basis or no a class basis if provided in implementing regulations, obtain on equitable terms a license of lesser scope than set forth in subparagraph (c)(1) of the clause if the agency determines that such lesser license will substantially enhance the transfer or dissemination of any data first produced under the contract.

(ii) *Data not first produced in the performance of a contract.* (A) Contractors are not to incorporate in data delivered under contract any data not first produced under the contract with the copyright notice of 17 U.S.C. 401 or 402 without either: acquiring for, or granting to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data; or obtaining permission from the contacting officer to do otherwise. However, if computer software not first produced under contract is delivered with the copyright notice of 17 U.S.C. 401 or 402, the Government's license will be as set forth in subparagraph (h)(3) (Alternate III) if included in the clause at 2852.227–70, Rights in Data-General, or as otherwise may be provided in a collateral agreement incorporated in or made part of the contract.

(B) Contractors delivering data with an authorized limited rights or restricted rights notice and a copyright notice of 17 U.S.C. 401 or 402 should modify the copyright notice to include the following (or similar) statement: "Unpublished-all rights reserved under the copyright laws." If this statement is omitted, the

contractor may be afforded an opportunity to correct it in accordance with 2827.403(b)(9). Otherwise, data delivered with a copyright notice of 17 U.S.C. 401 or 402 may be presumed to be published copyrighted data subject to the applicable license rights as set forth in paragraph (b)(6)(ii) (A) above, without disclosure limitations or restrictions.

(C) If contractor action causes limited rights or restricted rights data to be published with copyright notice after its delivery to the Government, the Government is relieved of disclosure and use limitations and restrictions regarding such data, and the contractor should advise the Government and request that a copyright notice be placed on the data, and acknowledge that the applicable copyright license set forth in paragraph (b)(6)(ii) above applies.

(7) *Validation of proprietary data restrictions.* (i) The Government has, in accordance with paragraph (e) of the clause at 2852.277–70, Rights in Data-General, the right to require a contractor or subcontractor, at any tier, to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the Government to use such technical data. The contracting officer shall review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of Government to use technical data furnished to it under a contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that continued adherence to the asserted restriction by the Government would make it impracticable to procure the item competitively at a later date.

(ii) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state:

(A) The grounds for challenging the asserted restriction; and,

(B) The requirement for a written response within 60 days justifying the current validity of the asserted restriction.

(iii) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

(iv) (A) Upon a failure by the contractor or subcontractor to submit any response under paragraph (b)(7)(ii) above, the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

(B) If a justification is submitted in response to the notice provided pursuant to paragraph (b)(7)(ii) above, a contracting officer shall, within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

(v) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(vi) (A) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is sustained:

(1) The restriction on the right of the Government to use the technical data shall be cancelled; and,

(2) If the asserted restriction is found not to be substantially justified, the contractor, or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the asserted restriction and the fees and other expenses (as defined in Title 28 U.S.C. section 2412(d)(2)(A)) incurred by the Government in challenging the asserted restriction, unless special circumstances would make such payments unjust.

(B) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is not sustained:

(*1*) the Government shall continue to be bound by the restriction; and,

(*2*) the Government shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in Title 28 U.S.C. section 2412(d)(2)(A)) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the Government is found not to be made in good faith.

(8) *Unauthorized marking of data.* The Government has, in accordance with paragraph (f) of the clause at 2852.227–70, Rights in Data-General, the right to either return to the contractor data containing markings not authorized by that clause, or to cancel or ignore such markings. However, markings will not be cancelled or ignored without making written inquiry of the contractor and affording the contractor at least 60 days (or a longer time approved by the contracting officer for good cause shown) to substantiate the propriety of the markings. The contracting officer will also give the contractor notice of any determination made based on any response by the contractor. Any such determination to cancel or ignore the markings shall be a final decision under the Contract Disputes Act. Failure of the contractor to respond to the contracting officer's inquiry within the time afforded may, however, result in Government action to cancel or ignore the markings. The above procedures may be modified in accordance with bureau regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(9) *Omitted or incorrect notices.* (i) Data delivered under a contract containing the clause at 2852.227–70, Rights in Data-General, without a limited rights notice or restricted rights notice, or without a copyright notice, shall be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure or use, or reproduction, of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may within 6 months (or a longer period approved by the contracting officer for good cause shown) request permission of the contracting officer to have the omitted limited rights or restricted rights notices, as applicable, placed on qualifying data at the contractor's expense, and the contracting officer may agree to so permit if the contractor:

(A) Identifies the data for which a notice is to be added or corrected;

(B) Demonstrates that the omission of the proposed notice was inadvertent;

(C) Establishes that use of the proposed notice is authorized; and,

(D) Acknowledges that the Government has no liability with respect to any disclosure or use of any

such data made prior to the addition of the notice or resulting from the omission of the notice.

(ii) The contracting officer may also (A) permit correction, at the contractor's expense, of incorrect notices if the contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or (B) correct any incorrect notices.

(10) *Release, publication, and use of data.* (i) In the clause at 2852.227–70, Rights in Data-General, paragraph (d) provides that contractors normally have the right to use, release to others, reproduce, distribute, or publish data first produced specifically in the performance of a contract; however, to the extent the contractor receives or is given access to data that are necessary for the performance of the contract and the data contains restrictive markings, the contractor agrees to treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(ii) Agencies may, on a case-by-case basis, or on a class basis if provided in implementing regulations, place further limitations or restrictions on the contractor's right to use, release to others, reproduce, distribute or publish any data first produced (but not data specifically used) in the performance of the contract. Such restrictions are not to be imposed on a class basis unless they are pursuant to statutory requirements, determined to be necessary in the furtherance of agency mission objectives, or determined to be necessary in support of specific agency programs.

(11) *Inspection of data at the contractor's facility.* Agencies may obtain the right to inspect data at the contractor's facility by use of Alternate V, which adds paragraph (b)(1) above to provide that right in the clause at 2852.227–70, Rights in Data-General. The data subject to inspection may be data withheld or withholdable under subparagraph (h)(1) of the clause, or any data specifically used in the performance of the contract. Such inspection may be made by the contracting officer or representative for the purpose of verifying a contractor's assertion regarding the limited rights or restricted rights status of the data, or for evaluating work performance under the contract. This right may be exercised at all reasonable times up to three years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not subject to inspection under paragraph (b)(1) above (Alternate V). If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(c) *Production of special works.* (1) The clause at 2852.227–73, Rights in Data-Special Works, applies to contracts (or may be made applicable to portions thereof) that are primarily for the production or compilation of data (other than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are contracts for:

(i) The production of audiovisual works including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like;

(ii) Histories of the respective agencies, departments, services, or units thereof;

(iii) Works pertaining to recruiting, morale, training, or career guidance;

(iv) Surveys of Government establishments;

(v) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties;

(vi) The compilation of reports, studies, surveys, or similar documents that do not involve research, development, or experimental work performed by the contractor;

(vii) The collection of data containing personally identifiable information such that the disclosure thereof would violate the right of privacy or publicity of the individual to whom the information relates;

(viii) Investigatory reports; or,

(ix) The development, accumulation, or compilation of data (other than that resulting from research, development, or experimental work performed by the contractor), the early release of which could prejudice follow-on acquisition activities.

(2) The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced other than for contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the works are acquired.

(d) *Acquisition of existing data other than limited rights data.*—(1) *Existing audiovisual and similar works.* The clause at 2852.227–74, Rights in Data-Existing Works, is for use in contracts exclusively for the acquisition (without modification) of existing motion pictures, television recordings, and other audiovisual works; sound recordings; musical dramatic, and literary works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; and works of a similar nature. The contract may set forth limitations consistent with the purposes for which the works covered by the contract are being acquired. Examples of these limitations are (i) means of exhibition or transmission, (ii) time, (iii) type of audience, and (iv) geographical location. If the contract requires that works of the type indicated above are to be modified through editing, translation, or addition of subject matter, etc. (rather than purchased in existing form) the clause at 2852.227–73, Rights in Data-Special Works, is to be used. (See 2827–403(c).)

(2) *Separate acquisition of existing computer software.* (i) If the contract is for the separate acquisition of existing computer software, no specific contract clause contained in this subpart need be used. However, the contract must specifically address the Government's rights to use, disclose, and reproduce the software and must contain terms obtaining sufficient rights for the Government to fulfill the need for which the software is being acquired. The restricted rights set forth in 2827.403(b)(5) should be used as a guide and are usually the minimum the Government should accept. If the computer software is to be acquired with unlimited rights, the contract must also so state. In addition, the contract must adequately describe the computer programs and/or data bases, the form (tapes, punch cards, disc pack, and the like), and all the necessary documentation pertaining thereto. If the acquisition is by lease or license, the disposition of the computer software (by returning to the vendor or destroying) at the end of the term of the lease or license must be addressed.

(ii) If the contract incorporates, makes reference to, or uses a vendor's standard commercial lease, license, or purchase agreement, such agreement shall be reviewed to assure that it is consistent with paragraph (d)(2)(i) above, and all other statutory and regulatory constraints. Caution should be exercised in accepting a vendor's terms and conditions since they may be directed to

commercial sales and may not be appropriate for Government contracts. Any inconsistencies in a vendor's standard commercial agreement shall be addressed in the contract and the contract shall state that its terms shall take precedence over the vendor's standard commercial agreement.

(iii) If a prime contractor under a contract containing the clause at 2852.227–70, Rights in Data-General, with subparagraph (h)(3) (Alternate III) in the clause acquires restricted computer software from a subcontractor (at any tier) as a separate acquisition for delivery to the Government, the contracting officer may approve any additions to, or limitations on the restricted rights in the Restricted Rights Notice of subparagraph (h)(3) in a collateral agreement incorporated in and made part of the contract. (See also 2827.403(b)(5).)

(3) *Other existing works.* (i) Except for existing audiovisual and similar works pursuant to paragraph (d)(1) above, and existing computer software pursuant to paragraph (d)(2) above, no clause contained in this subpart need be included in: (*a*) contracts solely for the acquisition of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items) unless reproduction rights of such items are to be obtained; or (*b*) contracts resulting from formal advertising that require only existing data to be delivered unless reproduction rights for such data (other than limited rights data) are to be obtained. If reproduction rights are to be obtained, such rights must be specifically set forth in the contract.

2827.404 Acquisition of data.

(a) *General.* (1) It is important to recognize and maintain the conceptual distinction between contract terms whose purpose is to identify the data required for delivery to, or made available to, the Government (i.e., data requirements); and those contract terms whose purpose is to define the respective rights of the Government and the contractor in such data (i.e., data rights). This section relates to data requirements; section 2827.403 relates to the data rights.

(2) It is the Government's practice to determine, to the extent feasible, its data requirements in time for inclusion in solicitations. The data requirements are subject to revision during contract negotiations. Since the preparation, reformatting, maintenance, updating, cataloging, and storage of data represents an expense to both the Government and the contractor, efforts should be made to keep the contract data requirements to a minimum.

(3) To the extent feasible, all known data requirements, including the time and place for delivery and any limitations and restrictions to be imposed on the contractor in the handling of the data, shall be specified in the contract. In establishing the contract data requirements and in specifying data items to be delivered by a contractor, bureaus may, consistent with paragraph (a)(2) above, develop their own implementing instructions (including data requirements lists) for listing, specifying, identifying sources, assuring delivery, and handling any data required to be delivered, first produced, or specifically used in the performance of the contract.

(b) *Additional data requirements.* Recognizing that in some contracting situations, such as experimental, developmental, research, or demonstration contracts, it may not be possible or appropriate to ascertain all the data requirements at the time of contracting, the clause at 2852.227–72, Additional Data Requirements, is provided to enable the subsequent ordering by the Government of additional data first produced or specifically used in the performance of such contracts as the actual requirements become known. Data may be ordered under this clause at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the data into the prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of data, the contractor may be relieved of retention requirements for specified data items by the contracting officer at any time during the retention period required by the clause. Any data ordered under the clause will be subject to the Rights in Data-General clause in the contract and data authorized to be withheld under that clause will not be required to be delivered under this Additional Data Requirements clause.

2827.405 Solicitation provisions and contract clauses

(a)(1) The contracting officer shall insert the clause at 2852.227–70, Rights in Data-General (see 2827.403(b)), in solicitations and contracts if it is contemplated that data will be produced, furnished, or acquired under the contract, unless the contract is:

(i) For the production of special works of the type set forth in 2827.403(c), but the clause at 2852.227–70, Rights in Data-General, shall be included in the contract and made applicable to data other than special works, as appropriate;

(ii) For the separate acquisition of existing works, as described in 2827.403(d);

(iii) To be performed outside the United States, its possessions, and Puerto Rico, in which case bureaus may prescribe different clauses (see paragraph (h) below);

(iv) For architect-engineer services or construction work, in which case bureaus may prescribe different clauses (see paragraph (i) below), but the clause at 2852.227–70, Rights in Data-General, may be included in the contract and made applicable to data pertaining to other than architect-engineer services and construction work;

(v) A Small Business Innovative Research (SBIR) contract, in which case bureaus shall prescribe clauses consistent with the requirements of Public Law 97–219 (the Small Business Innovative Development Act of 1982) and the Small Business Administration Policy Directive No. 65–01 (see paragraph (j) below);

(vi) For the operation of a Government-owned facility to perform research, development or production work, in which case bureaus may prescribe different clauses (see paragraph (k) below).

(2) If a contracting officer determines, in accordance with 2827.403(b)(2), to adopt the alternate definition of "Limited Rights Data" in paragraph (a) of the clause, the clause shall be used with its Alternate I.

(3) If a contracting officer needs to obtain the delivery of limited rights data, the clause shall be used with its Alternate II (see 2827.403(b)(4)). The contracting officer shall, when Alternate II is used, assure that the purposes, if any, for which limited rights data is to be disclosed outside the Government are included in the "Limited Rights Notice" of subparagraph (h)(2) of the clause in accordance with 2827.403(b)(4). The contract may exclude identified items of data from delivery under subparagraph (h)(2) of the clause. Alternate II may be used at the time of contracting or subsequently by amendment if the need to acquire limited rights data arises during contract performance.

(4) If a contracting officer needs to obtain the delivery of restricted computer software, the clause shall be used with its Alternate III (see 2827.403(b)(5)). Any greater or lesser rights regarding the use, duplication, or disclosure of restricted computer software than those set forth in the Restricted Rights Notice of

subparagraph (h)(3) of the clause must be specified in the contract. Alternate III may be used at the time of contracting or subsequently by amendment if the need to acquire restricted computer software arises during contract performance.

(5) If a contracting officer wishes to limit the automatic right of the contractor to establish claim to copyright subsisting in data first produced in the performance of the contract to scientific and technical articles based on or derived from the work performed under the contract and published in academic, technical, or professional journals, the clause shall be used with its Alternate IV. (See 2827.403(b)(6).) Alternate IV provides a substitute subparagraph (c)(1) in the clause with such limitation. This subparagraph (c)(1) does, however, allow the contracting officer to give permission to the contractor to establish claim to copyright subsisting in other data first produced in the performance of the contract, either at the time of contracting or subsequently during contract performance, in accordance with 2827.403(b)(6).

(6) If a contracting officer needs to have the right to inspect certain data at a contractor's facility, the clause shall be used with its Alternate V. (See 2827.403(b)(11).) Alternate V adds a paragraph (1) to the clause to provide for such right, including the limitations thereon. Inspection may be by the contracting officer or a representative, and may be made at all reasonable times up to 3 years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not to be subject to inspection under paragraph (1) of the clause. If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(b) If a contracting officer desires to have an offeror state in response to a solicitation, to the extent feasible, whether limited rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation, the contracting officer shall insert the provision at 2852.227-71, Notification of Limited Rights Data and Restricted Computer Software, in any solicitation containing the clause at 2852.227-70, Rights in Data-General. The contractor's response will provide an aid in determining whether the clause should be used with Alternate II and/or Alternate III. (See 2827.403(b)(4) and (5).)

(c) The contracting officer shall insert the clause at 2852.227-72, Additional Data Requirements, in solicitations and contracts involving experimental, developmental, research, or demonstration work unless all the requirements for data are believed to be known at the time of contracting and specified in the contract. (See 2827.404.) This clause may also be used in other contracts when considered appropriate. If the clause at 2852.227-70, Rights in Data-General, is used in the contract with its Alternates II or III, the contracting officer may permit the contractor to identify data the contractor does not wish to deliver, and may specifically exclude in the contract any requirements that such data be delivered under paragraphs (h) (2) or (3) of that clause or ordered for delivery under the Additional Data Requirements clause if such data is not necessary to meet the Government's requirements for data. Also, the contracting officer may alter the Additional Data Requirements clause by deleting the term "or specifically used" in subparagraph (a) of the clause if delivery of such data is not necessary to meet the Government's requirements for data.

(d) The contracting officer shall insert the clause at 2852.227-73, Rights in Data-Special Works, in solicitations and contracts primarily for the production or compilation of data (other than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific reason to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples of such contracts are set forth in 2827.403(c). The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced by the contractor for other than contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the data is acquired.

(e) The contracting officer shall insert the clause at 2852.227-74, Rights in Data-Existing Works, in solicitations and contracts exclusively for the acquisition, without modification, of existing audiovisual and similar works of the type set forth in 2827.403(d)(1). The contract may set forth limitations consistent with the purposes for which the work is being acquired. The clause at 2852.227-73, Rights in Data-Special Works, shall be used if existing works are to be modified, as by editing, translation, addition of subject matter, etc.

(f) While no specific clause of this subpart need be included in contracts for the separate acquisition of existing computer software, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with 2827.403(d)(2).

(g) While no specific clause of this subpart need be included in contracts solely for the acquisition of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items), if reproduction rights are to be acquired, the contract shall include terms addressing such rights. (See 2827.403(d)(3).)

(h) Bureaus may prescribe, as appropriate, clauses consistent with the policy of section 2827.402 in contracts to be performed outside the United States, its possessions, and Puerto Rico.

(i) Bureaus may prescribe, as appropriate, clauses consistent with the policy in section 2827.402 in contracts for architect-engineer services and construction work.

(j) Bureaus shall prescribe clauses consistent with the requirements of Pub. L. 97-219 (the Small Business Administration Development Act of 1982) and the Small Business Innovative Policy Directive No. 65-01 in Small Business Innovative Research (SBIR) contracts.

(k) Bureaus may prescribe, as appropriate, clauses consistent with the policy in section 2827.402 in contracts for the operation of Government-owned research, development, or production facilities.

PART 2830—COST ACCOUNTING STANDARDS

Subpart 2830.2—Disclosure Requirements

2830.201-270 [Amended]

23. Section 2830.201-70, last sentence is amended by removing the words ". . . to the DOJ Procurement Executive who will review" and inserting ". . . to the Office of the Procurement Executive for review of . . ." in their place.

PART 2831—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 2831.1—Applicability

2831.101-70 [Amended]

24. 2831.101-70, paragraph (b), is amended by removing the words "DOJ Procurement Executive" and inserting the words "Office of the Procurement Executive" in their place.

25. A new Part 2834 is added to read as follows:

PART 2834—MAJOR SYSTEM ACQUISITION

2834.002-70 Policy.

In accordance with Pub. L. 98-577, the Small Business and Federal Procurement Competition Enhancement Act of 1984, an executive agency may establish dollar thresholds for the designation of a major system. Accordingly, dollar thresholds for a major system under Office of Management and Budget Circular A-109 are designated below.

(a) *Major Automated Information System.* Within the Department of Justice, a major automated information system is one whose life cycle cost is in excess of $40 million.

(b) *Major Real Property System.* (1) By purchase, when the assessed value of the property exceeds $12 million.

(2) By lease, when the annual rental charges, including basic services (e.g., cleaning, guards, maintenance), exceed $1.5 million.

(3) By transfer from another agency at no cost when the assessed value of the property exceeds $12 million.

(c) *Construction Projects.* Construction projects for which the total estimated costs (including architectural and engineering design fees, and project administration and management fees) through implementation of the project exceed $60 million.

(d) *Research and Development (R&D) System.* Any R&D activity expected to exceed $0.5 million for the R&D phase is subject to OMB Circular A-109, unless exempted by the head of the contracting activity.

(e) *Any Other System or Activity.* The head of the agency responsible for the system may designate any system or activity as a Major System under OMB Circular A-109 as a result of Departmental review, e.g., selected systems designed to support more than one principal organizational unit.

[28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).]

PART 2835—RESEARCH AND DEVELOPMENT CONTRACTING

Subpart 2835.003-70 Policy and Procedures

2835.003-70 [Amended]

26. Section 2835.003-70, paragraph (a), second sentence, is amended by removing "justification for noncompetitive procurement" and inserting the words "justification for other than full and open competition" in their place.

27. Section 2835.003-70, paragraph (a), third sentence, is amended by removing the words "DOJ Procurement Executive" and inserting the words "Office of the Procurement Executive" in their place.

PART 2852—[AMENDED]

28. Subpart 2852.227 is added to read as follows:

Subpart 2852.227

Sec.

2852.227-70 Rights in data—general.
2852.227-71 Notification of limited rights data and restricted computer software.
2852.227-72 Additional data requirements.
2852.227-73 Rights in data—special works.
2852.227-74 Rights in data—existing works.

Subpart 2852.227

2852.227-70 Rights in data—general.

As prescribed in 2827.403(a) and 2827.405(a)(1), insert the following clause:

Rights in Data—General (Apr. 1, 1985)

(a) *Definitions.*

"Computer software," as used in this clause, means:

(1) Computer programs, i.e., any set of statements or instructions in any form of written programming language source code, or machine-executable code that is capable of causing a machine with information processing capabilities to perform a particular result;

(2) Computer data bases, i.e., any form of information in written programming language source code or machine-executable code, other than computer programs;

(3) Computer supporting material, i.e., any material in lingual, pictorial schematic, or other form, that would permit the making of a computer program (e.g., flow charts), or that was created to aid the understanding, application, or use of a computer program (e.g., user instructions and manuals, installation and operation manuals, input and output forms, and technical documentation); and,

(4) Any updates or revisions to computer programs, computer data based, or computer supporting material;

(5) But, does not mean any data produced as a result of using computer programs, computer data bases, or computer supporting material delivered under a contract.

"Created," as used in this clause, has the same meaning as does that term in the Copyright Act (17 U.S.C. 101).

"Data," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or financial, business, and management information required for contract administration purposes.

"Data first produced in the performance of this contract," as used in this clause, means data the contractor created, in whole or in part, after the effective date of this contract for the purpose of performing its obligations under this contract.

"Form, fit, and function data," as used in this clause, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identify source, size, configuration, mating and attachment characteristics, and performance requirements.

"Limited rights," as used in this clause, means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of subparagraph (h)(2) if included in this clause, or as otherwise provided in a collateral agreement incorporated in and made part of this contract.

"Limited rights data," as used in this clause, means computer software developed in whole at private expense and that is a trade secret or is copyrighted computer software.

"Restricted computer software," as used in this clause, means computer software developed in whole at private expense and that is a trade secret or is copyrighted computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in the Restricted Rights Notice of subparagraph (h)(3) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract.

"Unlimited rights," as used in this clause, means the rights to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public, without restriction, by sale or other transfer of ownership or by rental, lease or lending, perform publicly in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language, source code, or machine-executable code.

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) below, the Government shall have entire right, title and interest, and unlimited rights in:

(i) All data first produced in the performance of this contract;

(ii) All form, fit, and function data delivered under this contract;

(iii) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (h) below;

(iv) All data produced as a result of using computer software delivered under this contract; and,

(v) All modifications, adaptation, enhancements, mergers or combinations with other computer software, and conversions to any other programming language source code or machine executable code, of any computer software first produced in the performance of this contract, or of any other computer software delivered under this contract unless provided otherwise for restricted computer software in accordance with paragraph (h) below, created by or on behalf of the Government.

(2) Except as provided in paragraph (d) below, the contractor shall have:

(i) A non-exclusive, royalty-free, worldwide, unlimited right to all data first produced in the performance of this contract or otherwise delivered under this contract, but not in data identified in subparagraph (1)(iv) and (1)(v) of this paragraph above, except as set forth in paragraph (h) below.

(ii) The right to protect data which is limited rights data or restricted computer software to the extent provided in paragraphs (f), (g), and (h) below; and,

(iii) The right to establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c)(1) below.

(c) *Copyright.*—(1) *Data first produced in the performance of this contract.* (i) Except as provided in paragraph (ii) below, the contractor may establish claim to copyright subsisting in any data it first produced in the performance of the contract. If the contractor claims such copyrights, the contractor shall notify the Government that it claims such copyrights, identify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers that data to the Government, and include an acknowledgement of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights, the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have, or permit, other persons to exercise those rights other than those on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice [DOJ] shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or, (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

(2) *Data not first produced in the performance of this contract.* The contractor shall not, without prior written permission of the contracting officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and for which copyright is claimed by anyone, unless the contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1)(i) above; (*provided, however,* That if such data is computer software the Government shall acquire a copyright license as set forth in subparagraph (h)(3) below if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.)

(3) The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproduction of the data.

(d) *Data received in performance of contract.* The contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contains restrictive markings, the contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(e) *Validation of proprietary data restrictions.* (1) Notwithstanding any other provisions of this contract including inspection and acceptance the Government has the right to require a contractor or subcontractor, at any tier, to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the Government to use such technical data. The contracting officer shall review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of Government to use technical data furnished to it under a contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that continued adherence to the asserted restriction by the Government would make it impracticable to procure the item competitively at a later date.

(2) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state:

(i) the grounds for challenging the asserted restriction; and,

(ii) the requirement for a written response within 60 days justifying the current validity of the asserted restriction.

(3) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting office a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenge to restrictions or technical data from more than one contracting officer and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

(4)(i) Upon a failure by the contractor or subcontractor to submit any response under subsection (2), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

(ii) If a justification is submitted in response to the notice provided pursuant to subsection (2), a contracting officer shall within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

(5) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(6)(i) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is sustained:

(A) the restriction on the right of the Government to use the technical data shall be cancelled; and,

(B) if the asserted restriction is found not to be substantially justified, the contractor, or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the asserted restriction and the fees and other expenses (as defined in Title 28 Section 2412(d)(2)(A)) incurred by the Government in challenging the asserted restriction, unless special circumstances would make such payments unjust.

(ii) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is not sustained:

(A) the Government shall continue to be bound by the restriction; and,

(B) the Government shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in Title 28 U.S.C. Section 2412(d)(2)(A)) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the Government is found not to be made in good faith.

(f) *Unauthorized markings of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract is marked with the notices specified in subparagraphs (h)(2) or (h)(3) below and use of such is not authorized by this clause, the contracting officer may either return the data to the contractor, or cancel or ignore the markings. However, markings will not be cancelled or ignored unless:

(i) The contracting officer makes written inquiry to the contractor concerning the propriety of the markings, providing the contractor 60 days to respond; and,

(ii) The contractor fails to respond within the 60-day period (or a longer time approved by the contracting officer for good cause shown), or the contractor's response fails to substantiate the propriety of the markings.

(2) The contracting officer shall consider the contractor's response, if any, and determine whether the markings shall be cancelled or ignored. The contracting officer shall furnish written notice to the contractor of the determination, which shall be a final decision under the Contract Disputes Act.

(3) The above procedures may be modified in accordance with bureau regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(g) *Omitted or incorrect markings.* (1) Data delivered to the Government without any notice authorized by paragraph (h) below, or without a copyright notice, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may request, within six months (or a longer time approved by the contracting officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the contractor's expense, and the contracting officer may agree to do so if the contractor:

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and,

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The contracting officer may also (i) permit correction at the contractor's expense, of incorrect notices if the contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or, (ii) correct any incorrect notices.

(h) *Protection of limited rights data and restricted computer software.* (1) Except as provided otherwise in paragraphs (2) and (3) below, when data other than those listed in subparagraphs (b)(1) (i) and (ii) above are specified to be delivered under this contract and qualify as either limited rights data or restricted computer software the contractor, if he/she desires to continue protection of such data, shall withhold such data and not furnish it to the Government under this contract. As a condition of this withholding the contractor shall identify the data as withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as computer data bases for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(2) Reserved (unless Alternate II is used)

(3) Reserved (unless Alternate III is used)

(i) *Subcontracting.* The contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the contractor shall promptly bring such refusal to the attention of the contracting officer and not proceed with subcontract award without further authorization.

(j) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(k) *Indemnity.* The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery publication, or use of any data delivered under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

Alternate I (Apr. 1, 1985). As prescribed in 2827.403(b)(2) and 2827.405(a)(2), substitute the following definition for "Limited Rights Data" in paragraph (a) of the clause.

"Limited rights data," as used in this clause, means data produced at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Alternate II (Apr. 1, 1985). As prescribed in 2827.403(b)(4) and 2827.405(a)(3), insert the following subparagraph (h)(2) in the clause:

(h)(2) Notwithstanding subparagraph (h)(1) above, the contract may identify and specify the delivery of limited rights data, or the contracting officer may require by written request the delivery of limited rights data that have been withheld or would otherwise be withholdable. If deliver of such data is so required, the contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraphs (e), (f) and (g) above, in accordance with such Notice:

"Limited Rights Notice (Apr. 1, 1985)

(a) These data are submitted with limited rights under Government contract No. ——— (subcontract ———, if appropriate). The data may be reproduced and used by or on behalf of the Government with the express limitation that it will not, without permission of the contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose this data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

[Agencies may list additional purposes as set forth in 2827.403(b)(4)]

(b) This Notice shall be marked on any reproduction of this data, in whole or in part."

Alternate III (Apr. 1, 1985). As prescribed in 2827.403(b)(5) and 2827.405(a)(4), insert the following subparagraph (h)(3) in the clause:

(h)(3) Notwithstanding subparagraph (h)(1) above, the contract may identify and specify the delivery of restricted computer software, or the contracting officer may require by written request the delivery of restricted computer software that has been withheld. If delivery of such computer software is so required, the contractor may affix the following "Restricted Rights Notice" to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e), (f) and (g) above, in accordance with the Notice:

"Restricted Rights Notice (Apr. 1, 1985)

(a) This computer software is submitted with restricted rights under Government contract No. ——— (and subcontract . . . . . ., if appropriate). The rights of the Government are those as provided below.

(b) The Government may:

(1) Use this computer software or reproduce it for use in or with the computer for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Reproduce it for safekeeping (archives) or backup purposes;

(3) Prepare derivative works of, modify or adapt, or enhance it, or merge or combine it with other computer software, or convert it to other programming language source code or machine-executable code, providing that the modified or adapted, enhanced, merged,

combined or converted portions of the restricted computer software incorporated in the computer software shall be subject to the same restricted rights, and the contractor shall not have any rights to other portions of the modified, adapted, enhanced, merged, combined or converted computer software; and

(4) Disclose and reproduce it for use by support contractors or their subcontractors in accordance with subparagraphs (1) through (3) above, provided the Government makes such disclosure subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software is published, copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (c) of the clause No. 2852.227-70, "Rights in Data-General."

(d) Any other rights or limitations regarding the use, duplication or disclosure of this computer software are to be expressly stated in the contract.

(e) This Notice shall be marked on any reproduction of this computer software, whether reproduced in whole or in part."

Where it is impractical to include the above Notice on restricted computer software, the following short-form notice may be used in lieu thereof:

"Restricted Rights Notice

(Short Form) (Apr. 1, 1985)

Use, reproduction, or disclosure is subject to restrictions set forth in contract No. ——— (and subcontract ———, if appropriate) with ———— (name of contractor and subcontractor)."

Alternate IV (Apr. 1, 1985). As prescribed in 2827.403(b)(6) and 2827.405(a)(5), substitute the following subparagraph (c)(1) in the clause:

(c)(1) *Data first produced in the performance of this contract.* (i) Unless provided otherwise in subparagraph (d) below, the contractor may establish claim to copyright subsisting in scientific and technical articles based on or derived from data first produced in the performance of this contract and published in academic, technical, or professional journals. The prior, express written permission of the contracting officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract in accordance with Justice Acquisition Regulation 2827.403(b)(6). When the contractor claims such copyrights, the contractor shall notify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers those data to the Government, and include an acknowledgment of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have, or permit, other persons to exercise those rights other than those on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice (DOJ) shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

Alternate V (Apr. 1, 1985). As prescribed in 2827.403(b)(11) and 2827.405(a)(6), add the following paragraph (1) to the clause:

(1) The contractor agrees, except as may be otherwise specified in this contract for specific data items listed as not subject to this paragraph, that the contracting officer or an authorized representative may, at all reasonable times up to three years after acceptance of all items to be delivered under this contract, inspect at the contractor's facility any data withheld under subparagraph (h)(1) of this clause, or any data specifically used in the performance of this contract, for the purpose of evaluating work performance or verifying the contractor's assertion to pertaining to the limited rights or restricted rights status of the data. Where the contractor whose data are to be inspected demonstrates to the contracting officer that there would be a possible conflict of interest if the inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(End of clause)

2852.227-71 Notification of limited rights data and restricted computer software.

As prescribed in 2827.403(b)(4) and 2827.405(b), insert the following provision in solicitations that include the clause at 2852.227-70, "Rights in Data-General."

Notification of Limited Rights Data and Restricted Computer Software (Apr. 1, 1985)

(a) This solicitation sets forth the work to be performed if a contract award results, and the Government's known requirements for data (as defined in Justice Acquisition Regulations 2852.227-70 Rights in Data—General) may include limited rights data or restricted computer software. Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause (Justice Acquisition Regulation 2852.227-72), if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause (Justice Acquisition Regulation 2852.227-70) that is to be included in this contract. Under this clause a contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. This clause also may be used with Alternates II and/or III to obtain delivery of limited rights data or restricted computer software with limited rights or restricted rights. In addition, use of Alternate V with this clause provides the Government with the rights to inspect such data at the contractor's facility.

(b) As an aid in determining the Government's need to include any of the above Alternates in the clause at 2852.227-70, Rights in Data—General, the offeror's response to this solicitation shall, to the extent feasible, either state that none of the data qualify as limited rights data or restricted computer software, or identify which of the data qualify as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(End of clause)

2852.227-72 Additional data requirements.

As prescribed in 2827.404(b) and 2827.405(c), insert the following clause in solicitations and contracts involving experimental, developmental, or research work, except those awards using small purchase procedures. This clause may be used in solicitations and contracts for other types of work after consultation with counsel.

Additional Data Requirements (Apr. 1, 1985)

(a) In addition to the data (as defined in the Rights in Data—General clause included in this contract) specified elsewhere in this contract to be delivered, the contracting officer may at any time during contract performance or within a period three years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data—General clause included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the contractor to deliver any data the withholding of which is

authorized by the Rights in Data—General clause of this contract, or data which are specifically identified in this contract as not subject to this clause.

(c) When data are to be delivered under this clause, the contractor will be compensated for converting the data into prescribed form, for reproduction, and for delivery.

(d) The contracting officer may release the contractor from the requirements of this clause for specifically identified data items at any time during the three year period set forth in (a) above.

(End of clause)

2852.227-73 Rights in data—special works.

As prescribed in 2827.403(c) and 2827.405(d), insert the following clause.

Rights in Data—Special Works (Apr. 1, 1985)

(a) *Definitions.*

"Data," as used in this clause, means recorded information, regardless of form or the media on which they may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or financial, business, and management information required for contract administration purposes.

"Unlimited rights," as used in this clause, means the rights to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public, without restriction, perform publicly by sale or other transfer of ownership or by rental, lease or lending, in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language, source code, or machine-executable code.

(b) *Allocation of Rights.*

(1) The Government shall have:

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) below for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) below.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) below.

(2) The contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) below, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.*—(1) *Data first produced in the performance of this contract.* (i) The contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without the prior written permission of the contracting officer. When the contractor, with the permission of the contracting officer, claims such copyrights, the contractor shall notify the Government that it claims such copyrights, identify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers those data to the Government, and include and acknowledgement of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights, the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have or permit other persons to exercise these rights other than on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice (DOJ) shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) Such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

(iii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (i) above, the contracting officer may direct the contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The contractor shall not, without prior written permission of the contracting officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and for which copyright is claimed by anyone, unless the contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1)(i) above; [*provided*, however, that if such data are computer software the Government shall acquire a copyright license as set forth in subparagraph (h)(3) of the Justice Acquisition Regulations Part 2852.227-70 Rights in Data—General clause of this contract, or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.]

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the contractor shall not use for purposes other than the performance of this contract, nor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the contracting officer.

(e) *Indemnity.* The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy of publicity, arising out of the creation, delivery, publication, or use of any data delivered under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

2852.227-74 Rights in data—existing works.

As prescribed in 2827.403(d) and 2827.405(e), insert the following clause:

Rights in Data—Existing Works (Apr. 1, 1985)

(a) Except as otherwise provided in this contract, the contractor grants to the Government, and others acting on its behalf, a non-exclusive, non-transferable, irrevocable, paid-up, worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense; or, to have or permit other persons to exercise these rights other than on behalf of the Government, for all the material or subject matter called for under this contract or for which this clause is specifically made applicable.

(b) The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of: (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation,

delivery, publication, or use of any data furnished under this contract; or, (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

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federal register

Monday
July 22, 1985

Part III

Department of the Treasury

Internal Revenue Service

Privacy Act of 1974; Notices of Systems of Records

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974: Periodic Publications of all Privacy Act Systems of Records

The Department of the Treasury is systematically republishing all of its systems of records notices. This notice updates the information for the systems of records maintained by the Internal Revenue Service. The notices for these systems of records were last published by the **Federal Register** in the Privacy Act Issuances 1984 Compilation, pages 787–836.

The Department has eliminated Appendix AA which listed blanket-type routine uses. The applicable routine uses now appear in each system of records. All other changes are editorial in nature and consist principally of address changes, revision of organizational titles and transfer of functions. None of the changes require an altered system report as prescribed by 5 U.S.C. 552a(o).

The Internal Revenue Service has deleted eight systems of records. Five of those systems are included in other existing systems as noted below.

Dated: July 15, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Deletions

22.012—Collection Case File, TX:R—(now included in 22.061).

22.036—Interest Equalization Tax Forms File, TX:R—This tax was repealed on February 1, 1977. The return file has been combined with System 22.034.

22.058—Corporate Tentative Carryback Allowance File, TX:R—Corporations are not covered by the Privacy Act of 1974.

24.017—Employee Inquiry Look-up for TDA Inquiries—(obsolete.) Its successor, the Taxpayer Inquiry Look-up Tape (TILT) is also a file of information returns and is a sub-file of 22.061.

24.057—Taxpayer Delinquent Investigation (TDI) Notice File—(now included in the IMF and BMF, 24.030 and 24.046 respectively).

26.007—Form 2990—Miscellaneous Investigations CP:C—(now included in System 26.006).

48.007—Economic Stabilization Program Files—This program, which related to entrepreneurial activity, ceased to function in 1974.

90.012—Internal Control Records for Chief Counsel Legal Files—Internal control has been decentralized and the records in this system have been placed in many other ex'sting systems of records.

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Treasury/IRS 10.001

SYSTEM NAME:

Biographical Files, Public Affairs—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices and Service Centers (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are biographical data on key IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file cabinets without locks or on magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Office doors locked at night.

RETENTION AND DISPOSAL:

Generally governed by the Records Management Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national office file. See Appendix A for appropriate address for regional and district office or service center files.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is supplied by the IRS official on an IRS biographical data form.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 10.004

SYSTEM NAME:

Subject Files, Public Affairs—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices and Service Centers (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In general, records are maintained on individuals whose names have been mentioned in the press in connection with their relationship with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include correspondence, newspaper clippings, inter-office memoranda and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinets without locks or on magnetic media.

RETRIEVABILITY:

Alphabetical by subject.

SAFEGUARDS:

Office doors locked at night.

RETENTION AND DISPOSAL:

Generally governed by the Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national office file. See Appendix A for appropriate address for regional and district office or service center files.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Records generally are clippings from newspapers, magazines, and similar sources, internal documents and memoranda.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 21.001

SYSTEM NAME:

Tax Administration Advisors Resources File, Tax Administration Advisory Services Division—Treasury/IRS.

SYSTEM LOCATION:

National office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and potential tax administration advisors who have served or indicated an interest in serving on advisory assignments, and selected officials engaged in tax administration and related fields.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards and lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration; work assignment or application folders of past and potential tax administration advisors, which contain employment history, information, medical abstracts, security clearances, and passport information; bio-data sketches on IRS and others engaged in tax administration and related fields.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in filing cabinets.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access limited to authorized Division personnel. File folders kept in locked file or locked room.

RETENTION AND DISPOSAL:

Disposed when no longer useful for official use. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Tax Administration Advisory Services Division, National Office (see IRS Appendix A).

NOTIFICATION PROCEDURE:

See System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

From the individual, from the organization with which he is associated, or from other knowledgeable experts in the field of Tax Administration.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.003

SYSTEM NAME:

Annual Listing of Undelivered Refund Checks, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices (see IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity information (Name, Street Address, City, State, Zip Code and Taxpayer Identification Number) and records containing tax module information (Tax Period, Amount of Credit Balance and Control Document Locator Number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individuals entitled to undeliverable refund checks will be notified of such checks by publication of their names in the news media. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document stored in files or on magnetic media.

RETRIEVABILITY:

Information is retrievable by taxpayer's SSN or EIN.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding retention and disposal are as specified in IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.011

SYSTEM NAME:

File of Erroneous Refunds, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers issued erroneous refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reference name, number, control number, date of erroneous refund, statute expiration date, status of case, location, correspondence and research material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document file.

RETRIEVABILITY:

Retrieved by SSN or EIN.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained four years then destroyed. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.026

SYSTEM NAME:

FORM 1042S Index By Name of Recipient, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Philadelphia Internal Revenue Service Center (see IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-resident aliens and U.S. citizens living abroad whose taxes are covered by IR Chapter 3 Withholding.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include taxpayer's name, address, tax data, country of residence and employer identification number and name of withholding agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained at PSC 5 years, then at Federal Records Center 25 years. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Director, Philadelphia Internal Revenue Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.027

SYSTEM NAME:

Foreign Information System (FIS), D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Detroit Data Center, Philadelphia Internal Revenue Service Center, its servicing Federal Records Centers, all Regional Offices, District Offices and National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Form 5471, Information Return with Respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, and identification number), foreign corporation identification, information relating to stock, U.S. shareholders, Earnings and Profits, Balance Sheet, and other available accounting information relating to a specific taxable period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media. (Various tables are published from this media.)

RETRIEVABILITY:

Documents are stored and retrieved by Document Locator Numbers.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retention and Disposal Instructions for this file are as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressd to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.032

SYSTEM NAME:

Individual Microfilm Retention Register, D:R:R:—Treasury/IRS.

SYSTEM LOCATION:

All IRS Service Centers, District Offices, and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals on whom records are maintained are: For Individual Master File (IMF) registers—Individuals who file, or may be required to file, individual tax returns such as Form 1040, 1040A, or 1040EZ.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are abstracts of tax and/or entity modules that have been removed from the IMF. These abstract records indicate the taxpayer name, identification number, specific tax returns filed, document locater number, tax years, debit and credit amounts, balances, and other transactions which have been recorded relative to the module(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm Tape.

RETRIEVABILITY:

IMF Reference Register, (for IMF Register only), identification number, Tax Period, name, and type of tax Methods of retrievability are explained in the Research Operations Handbook, IRM 36(66)0.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41).

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner

(D:R). Officials maintaining the system— Directors, Internal Revenue Service Centers, and National Computer Center (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.034

SYSTEM NAME:

Individual Returns Files, Adjustments and Miscellaneous Documents Files. D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers or return preparers who have had changes made to their accounts, or have had information posted to the Individual Master File or other tax accounting files as a result of filing returns, applications, or other documents, or as a result of actions initiated by the Service. A record will be maintained for those taxpayers whose individual income tax overpayments have been retained or transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the states under PL97-35.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of records reflecting tax matters which have served as input documents or supporting documentation for entries on the Individual Master File, or other tax accounting files, including tax return forms, declarations, applications, case records, processing documents, vouchers, computer notices, posting and correction forms, Interest Equalization Tax Forms, and similar records. Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by states under PL97-35: Also maintained will be the name of the submission state, the amount owed, and the amount of any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

Documents are stored and retrieved by Document Locator Numbers and by taxpayer name. The Document Locator Numbers can be determined by reference to the Individual Master File entries for the individual to whom they relate.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retention and Disposal Instructions for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.043

SYSTEM NAME:

Potential Refund Litigation Case Files, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have indicated to the Service that they may file suit against the service for a refund.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms filed by the taxpayer and case documents determined by the Service to be related.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

This is a paper document file. .

RETRIEVABILITY:

Documents are stored and retrieved by taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Retention and Disposal Instruction for paper document in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1 (15) 59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.044

SYSTEM NAME:

P.O.W.–M.I.A. Reference File, D:R:T—Treasury/IRS.

SYSTEM LOCATION:

Austin Service Center and each district office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

P.O.W./M.I.A.–originated from Department of Defense lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of P.O.W./M.I.A., Regulations, Rulings, and Instructions as to how to handle specific tax questions relating to their special tax status, copies of individual tax returns, claims, and other documents germane to specific cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents in file folders.

RETRIEVABILITY:

Cases filed alphabetically by last name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All cases have been retained and no current provisions have been established for disposal. Auth: IRM (15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Director, Internal Revenue Austin Service Center and District Directors of Internal Revenue. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.054

SYSTEM NAME:

Subsidiary Accounting Files, D:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals on whom records are maintained are taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of records maintained in the system are documents containing entity information (name, address, taxpayer identification number or employer identification number and other information necessary to identify the taxpayer) and accounting information relevant to one of the following categories: Funds held pending, disposition and not applied to the taxpayer's liability at present, properties, tangible or intangible, now in the custody of the Internal Revenue Service, counterfeit money, misappropriations or robbery of Internal Revenue Service funds, credits which cannot be applied to a specific taxpayer account at this time, accounts transferred to other Service Centers or

agencies, substantiation for the receipt of funds collected by the Service for other agencies, abatements or assessments of tax on individuals, deposits received from taxpayers, refunds to taxpayers, taxpayer accounts written off by the Service as uncollectible, credits allowed taxpayers requiring special consideration due to processing constraints, litigation, seized and acquired property and Offers-in-Compromise. A General Ledger with all fiscal accounting information is maintained within the RACS system which is an automated accounting control system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Accounting Files consist of paper documents and computer printouts stored in files.

RETRIEVABILITY:

Records are retrievable by Social Security Number and by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Records are retired to the Records Center and are retrieved by request from authorized individuals where account substantiation is necessary. Policies regarding disposal are as specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Some Justice Department investigations are an additional source for the information contained in litigation case files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.059

SYSTEM NAME:

Unidentified Remitance File, D:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. See IRS Appendix A for locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Remittances which have been received but cannot be positively identified, either as to the taxpayer who sent it or the tax period to which it is to be applied.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each record contains a fourteen digit unidentified remittance (UR) control number, the amount, received date, and all known identifying data. In addition, the URF contains a record of all doubtfully applied Estimated Tax (ES) credits. The ES record contains the taxpayer's name, address, type of payment, taxpayer identification number, tax period, received date, money amount, and the transaction document locator number (DLN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk Storage.

RETRIEVABILITY:

Remittance amount, Unidentified Remittance Control Number, taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

180 days after the amount is reduced to zero balance. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Unit Ledger Cards, D:R:R–Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with normal master file processes, e.g.: penalties, transferee assessments, termination assessments, excise protest accounts, Master File overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040–NR, 926, 5330, 4720, 990–AR (Penalty) and pre-ADP returns. Also, a record will be maintained for those taxpayers whose individual income tax overpayment have been retained and transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the States under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module). Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by the States under Pub. L. 97–35. Also maintained will be names of the submission state, the amount owed, and the amount on any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The unit ledger cards are a card file.

RETRIEVABILITY:

Information is retrievable by Taxpayer Identification Number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Disposition is prescribed in IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Wage and Information Returns Processing (IRP) File; D:R—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center, Martinsburg, W. Va.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of various types on income; wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions, annuities, retired pay or IRA payments; patronage dividends, distributions, and allocations; fishing crew payments; sales or redemption of securities, future transactions, commodities, bartering exchange transactions; original issue discount; distributions and prizes; currency transactions; state tax refunds; unemployment compensation, agricultural payments, taxable grants, indebtedness forgiveness; non-employees compensation; gambling winnings; and miscellaneous income.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are records representing certain wage and information returns: Forms W–2, W–2P, the 1087 and 1099 series; currency transaction reports; state tax refunds; statements of sales of equity obligations; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the incomepayer (very similar information), and identifies the type(s) and amount(s) of income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in social security number sequence.

RETRIEVABILITY:

By taxpayer social security number and name control.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Until tax year 1974, only until processed; after tax year 1974, four years; then magnetically erased. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R), National Office. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.013

SYSTEM NAME:

Combined Account Number File, Returns and Information Processing, D:R:R.—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

Social security number or employer identification number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Index IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding storage, retention, and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in the Internal Revenue Manual. The disposal of documents output from this file is specified in the Records Disposition Handbook, IRM 1(15)59, published by the Service.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.029

SYSTEM NAME:

Individual Account Number File (IANF), Returns and Information Processing: Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance, no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding storage, retention and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in IRM 1(15)59. The disposal of documents output from this file is specified in the Records Retention Handbook published by the Service and in the Internal Revenue Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the indivdual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.030

SYSTEM NAME:

Individual Master File (IMF); Returns and Information Processing, D:D:R—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Federal Individual Income Tax Returns (i.e. Forms 1040, 1040A) and power of attorney notifications for individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number (SSN) and other indicators pertaining to entity maintenance, including Zip Code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Modular records for authorization information (name, address, identification number and type of authority granted, and the name of the representative(s) for the taxpayer. Modular records for the representative (name, address and unique identification number). Recorded here are tax transactions such as tax amount, additions, abatements of tax payments, interest and like type transactions recorded relative to each tax module, power or attorney authorization transactions, and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account who owes past due child and/or spousal support payments and whose name has been submitted to IRS by a state under provisions of Pub. L. 97-35.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By identification number and alphabet.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook published by the Service, IRM 1(15)59. The code identifying taxpayers who threatened or assaulted IRS employees will be removed after five years or initial input.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.046

SYSTEM NAME:

Returns and Information Processing, D:R:R—Treasury/IRS Business Master File (BMF).

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in a sole proprietary role who file Excise Tax Returns (Form 11, 11 Band 720), Wagering Returns (Form 11C and 730), Highway Use Returns (Form 2290), and U.S. Fiduciary Return (Form 1041) and Estate and Gift Taxes (Form 706, 706NA and 709). The latter can be individuals not in a sole proprietorship role.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification name (TIN) which may be either EIN or SSN, and other indicators pertaining to entity maintenance, including Zip Code), and tax modules which are all the records relative to specific tax returns for each applicable tax period. Recorded are tax transactions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By name, type of tax, and identifying number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook published by the Service, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system contains a record pertaining to themselves may inquire in accordance with Instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.001

SYSTEM NAME:

Acquired Property Records, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delinquent taxpayers whose property has been acquired by purchase by government or right of redemption.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, revenue officer reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

Retrievable by taxpayer name, taxpayer identification number, seizure number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (Collection). Officials maintaining the system-District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains data for government accounting purposes from Service sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.006

SYSTEM NAME:

Form 2209, Courtesy Investigations, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices (See IRS Appendix A), Service Centers, and Federal Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom a delinquent account or delinquency or other investigation is or was located in one IRS district office, but the individual is now living or has assets located in the jurisdiction of another IRS District office. Taxpayers on whom an investigation has been initiated for purposes of securing information necessary for Federal Tax Administration purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains taxpayer name, current and former addresses, taxpayer identifying number, if known. Contains the information, including class of tax, if applicable, or information concerning the action desired to be taken. The name and address of party that was contacted, chronological investigative history and/or information secured. The following types of investigations are included in this system: Form SSA-1273 cases—Notice of determination of FICA wages—issued when SSA obtains evidence that wages paid to claimant have not been recorded on his earnings record; requests for data needed in proof of claim cases; applications for discharge of property from tax lien; service of tax court subpoenas; complaints of employers failing to provide withholding statements; recovery of unassessable erroneous refunds; Form SSA-7010 cases—Request for preferential Investigation. This is a request for preferential treatment (over other SSA cases) on an earning discrepancy case. Secure application for exemption from self-employment tax. Offers in compromise and related activities; i.e., follow-up on defaulted installments, secure payments on collateral agreements, etc. Maximize compliance with withholding requirements on alien's earnings; other miscellaneous uses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records, magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (Collection). Officials maintaining the system-District Directors and Service Center Directors. (See IRS Appendix A).

NOTIFICATION PROCEDURES:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.008

SYSTEM NAME:

IRS and Treasury Employee Delinquency, OP:C—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices and Service Centers. (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS and Treasury employees who are shown on the Master File as delinquent in meeting Federal tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, social security number, address, fact of IRS or Treasury employment code, District location code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USER:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—Assistant Commissioner (Collection), Regional Commissioners, District Directors and Service Center Directors (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.009

SYSTEM NAME:

Lien Files (Open and Closed), OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Federal Records Center (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax liens have been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment including class of tax, period, dollar amount. Open and closed Federal tax liens including: Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; Releases of Government's Right of Redemption. Federal tax lien information entered in Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802. U.S.C. 6323.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103, notices of lien and the index thereto are available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—Assistant Commissioner (Collection), Regional Commissioners, District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

This system contains copies of public records, the originals of which are filed in accordance with the laws of each State, the District of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States. See Notification above.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers' Federal Tax Returns

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.010

SYSTEM NAME:

Lists of Prospective Bidders at Internal Revenue Sales of Seized Property; OP:C—Treasury/IRS

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested that they be notified of Internal Revenue sales of seized property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address and phone number (if provided).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By name of prospective bidder.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors determine if need for this system exists. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director of Internal Revenue Service servicing the area in which the individual resides.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of Internal Revenue Service servicing the area in which the individual resides.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Supplied voluntarily by the subject prospective bidder.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.011

SYSTEM NAME:

Litigation Case Files, OPC:—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made but against whom litigation has been initiated or is being considered by the government or who have instituted suits against the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, and dollar amount. This file includes: Suit to Reduce Tax Claim to Judgement; Suit for Failure to Honor a Levy; Suit to Enforce Federal Tax Lien; Suit Against Transferee; Suit to Set Aside Fraudulent Transfer; Suit to Recover Erroneous Refund; other suits include those which the United States may intervene to assert a Federal tax lien; a proceeding to require opening of a safe deposit box, etc. The following suits against the United States are also included in this file: Quiet Title Suit; Foreclosure of Mortgage or other Lien; Partition; Condemnation; Interpleader; Refund Suits Involving 100-Percent Penalty Assessments; Injunction Suits Under Freedom of Information Act. Also included in Litigation Files are: Individuals against whom bankruptcy proceedings are pending; decedent estates in probate with outstanding Federal tax liabilities; individuals executing Assignments for the Benefit of Creditors; individuals in Receivership Proceedings; individuals conducting a bulk sale; summons referrals; subpoena files; advisory opinions; collateral security agreements; revenue officer reports; and various other legal instruments and correspondence. Disclosure may be made during judicial processes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To

disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system, and District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.012

SYSTEM NAME:

Offer in Compromise (OIC) File, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Center, Regional Offices, and Federal Records Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have submitted an offer to compromise a liability imposed by the Internal Revenue Code.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 2515, used to control offer cases, contains space for entering taxpayer name, address, taxpayer identification number, and all other pertinent information for identifying and assigning the OIC investigation. The file contains all records, documents, reports and work papers relating to the assignment, investigation, review and adjudication of the offer. This includes such items as the original offer, results of property records checks, interviews with third parties and the taxpayer, collateral income agreements, financial statements, tax return copies, and other information submitted by the taxpayer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103, and to the extent necessary to permit public inspection of any accepted offer-in-compromise as required by 26 U.S.C. 6103(K)(1). These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices Assistant Commissioner (Collection). Officials maintaining the system—Regional Commissioners, Service Center Directors and District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported. If an offer is accepted, an Abstract and Statement which identifies the taxpayer, the liability, the amount compromised and the basic circumstances of the case is made available for public inspection in accordance with EO 10386 and EO 10906.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.013

SYSTEM NAME:

One Hundred Percent Penalty Cases, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Centers and Federal Records Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of unpaid corporation withholding taxes and social security contributions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar figures, waiver extending the period for asserting the 100-percent penalty (if any) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By individual, or corporation name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices Assistant Commissioner (Collection), Officials maintaining the system, District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.014

SYSTEM NAME:

Record 21, Record of Seizure and Sale of Real Property. OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Also name and address of purchaser.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, property description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of this system of records evidences chain of title to real property and is a matter of public record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number and seizure number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41).

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection); officials maintaining the system—District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may address inquiries to or appear in person at the Office of District Director for each District whose records are to be searched.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This System of Records evidences chain of title to real property and is a matter of public record. (See Category of Record above.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.016

SYSTEM NAME:

Returns Compliance Programs (RCP) OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be delinquent in filing or paying Federal taxes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, address, taxpayer identification number (if known) and information concerning the potential tax liability. Returns Compliance Programs involve any type of Federal tax administered by the Collection Division and are conducted in accordance with Section 7601 of the Internal Revenue Code. RCP programs can be initiated by the National Office, Regional Offices, or by individual districts. Disclosure may be made during judicial processes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to third parties during the course of an investigation to extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.019

SYSTEM NAME:

TDA (Taxpayer Delinquent Accounts) including subsystems: (a) Adjustments and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, (d) Tax Collection Waiver, Forms 900, Files, (e) Accounts on child support obligations; OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made, and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, cancelled checks, amended returns, claims, collateral submitted to stay collection, copies of notices of Federal

tax liens, revenue officer reports, waivers to extend statutory period for collection, etc. and similar information about persons who owe child support obligations. This system includes Installment Agreement Files; Delinquent Account Inventory Profile (DAIP); Currently Not Collectible Register; Currently Not Collectible Register (over $25,000); Advance Dated Remittance Check Files; Currently Not Collectable Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communications System and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc and paper records, and magnetic media.

RETRIEVABILITY:

By taxpayer name, or name of person who owes child support obligations, and taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.020

SYSTEM NAME:

TDI (Taxpayer Delinquency Investigation) Files, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers believed to be delinquent in filing Federal tax returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history; Delinquency Investigation Inventory Profile (DIIP) and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officals maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.021

SYSTEM NAME:

Transferee Files, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes taxpayers on whom tax assessments have been made but who have allegedly transferred their assets in order to place them beyond the reach of the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts. Also the name, address, taxpayer identification number and related information about transferee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper record, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors, Service and Data Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.022

SYSTEM NAME:

Delinquency Prevention Programs, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers having a history of Federal tax delinquency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, taxpayer identification number, address, filing requirements, chronological investigative history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These

records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of Presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors Service and Data Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 30.003

SYSTEM NAME:

Requests for Printed Tax Materials Including Lists, Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files include those individuals that request various IRS printed materials such as publication 1045, reproduction proofs, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

A cross reference index may be developed to identify and control requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made: (1) To the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) To other federal agencies for the purpose of effecting interagency salary offset or interagency administrative offset. (3) To consumer reporting agencies in accordance with 31 U.S.C. 3711(f). (4) To a debt collection agency for debt collection services. (5) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (7) To mailing or distribution services contractors for the purpose of executing mailouts, order fulfillment, or subscription fulfillment. (8) To mailing or distribution services contractors for the purpose of maintaining mailing lists.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, paper records or mailing plates.

RETRIEVABILITY:

Alphabetically or numerically, by zip code.

SAFEGUARDS:

Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1 (15)59.31, RCS 301, GRS 13, Printing, Binding, Duplication, and Distribution Records. Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Publishing Services Branch National Office, and Chief, Resource Management in Regional Offices, District Offices and Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of

records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed or contested.

RECORD SOURCE CATEGORIES:

The information is supplied by the individual and/or company making the request. The Service adds data pertaining to the fulfillment of the request.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 30.004

SYSTEM NAME:

Security Violations—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, Service Centers, and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators of IRS Security Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of violator, circumstances of violation (date, time, actions of violator, etc.) supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder (notices of violation); 3 x 5 inch card file.

RETRIEVABILITY:

3 x 5 inch card file-name; lateral file cabinets, access by security officer and staff only.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Security Offices, National Office, Regional Office District Offices and Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Chief, Protective Programs Staff, National Office, or Security Officer for regional offices, service centers, and district offices. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any records contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System manager as noted.

RECORD SOURCE CATEGORIES:

Contract Guard Force and Security Inspections.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 32.001

SYSTEM NAME:

Travel Expense Record—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices and District Offices. (See IRS Appendix A for Locations.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All IRS employees who have incurred travel or moving expenses in conjunction with official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of travel advances, personal travel vouchers, household move vouchers, Forms W-2, Schedule of Disbursements, GAO decisions/rulings, Transportation Requests, Overdue Notices, Certification of Deposits, Government Bills of Lading, and Forms 2221 (Schedule of Collections). Records are for the purpose of maintaining accurate financial accounting of travel and moving expenses of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 2, Chapter 2, Sections 5 and 6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another Federal agency information to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media or paper records.

RETRIEVABILITY:

Alphabetically or numerically.

SAFEGUARDS:

Access is restricted to designated Fiscal Management employees, to individuals concerned on a need-to-know basis, and to administrative offices through the authority of the Travel Management Supervisor. As required, IRS Internal Audit and Security has access to the files.

RETENTION AND DISPOSAL:

Retired after one to three years to Federal Records Center; disposed in accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, IRS National Office, Financial Operations Branch, or Chief, Accounting Section, IRS Regional Office. See IRS Appendix A for Locations.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record

pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information supplied by employees, by GAO as required, and consumer reporting agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 32.003

SYSTEM NAME:

Schedules of Collections and Schedules of Canceled Checks—Treasury/IRS

SYSTEM LOCATION:

National Office and Regional Offices. See IRS Appendix A for locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Checks received from employees in connection with jury duty and overpayments. System maintained to place all collections under security control promptly upon receipt and to record amount of deposit to general ledger control accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another federal agency information to effect inter-agency salary offset, to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in locked file cabinet.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls are not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records are maintained until transferred to the Federal Records Center to be retained in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Office Financial Operations Branch, or Chief, Accounting Section, Regional Offices. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each Office whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees, District Directors, Regional Commissioners.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.003

SYSTEM NAME:

Assignment and Accountability of Personal Property Files. Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals receiving Government property for temporary use and repair.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of property, receipts, reasons for removal, and property passes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and FPMR (41 CFR) 101–19.108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution of civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to third parties during the

course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on various forms and ledgers maintained in locked filing cabinets.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with the Records disposition Handbook IRM 1(15)59.31, RCS 301, General Records Schedule 18, Security and Protective Services Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Space and Property Branch, National Office; Chief, National Office Facilities Management Branch; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Individuals who receive property or request property passes.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.005

SYSTEM NAME:

Parking Space Application and Assignment—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Internal Revenue Service employees who apply for assignment of carpool or reserved parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, position title, organization, vehicle identification, arrival and departure time, and service computation date of individual or principal carpool applicant. Contains name, place of employment, duty telephone, vehicle license number and service computation date of applicants, individuals or carpool members, for parking spaces.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on an 8½ x 10 inch or other local form.

RETRIEVABILITY:

Indexed by name of individual or principal carpool applicant.

SAFEGUARDS:

Records are maintained in a file cabinet in a locked room.

RETENTION AND DISPOSAL:

In accordance with IRM1(15)59.311, GRS 11, Space and Maintenance Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Office Protective Programs Staff, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Individuals applying for parking spaces.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.007

SYSTEM NAME:

Record of Government Books of Transportation Requests—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees issued Transportation Requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 496, alphabetical card record by name of the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another federal agency information to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card file box or file cabinets.

RETRIEVABILITY:

By name or serial number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.31 GRS 9, Travel and Transportation Records.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officers, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Government Books of Transportation Requests and employees to whom Books were issued.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.009

SYSTEM NAME:

Safety Program Files System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees and others involved in an IRS motor vehicle accident, and accident or injury on IRS property, or a tort or personal property claim against the service. All individuals issued an IRS drivers license are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual driving records and license applications, motor vehicle accident reports, lost time and no-lost time personal injury reports, tort and personal property claims case files, informal and formal investigative report files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To provide the Department of Labor in connection with investigations of accidents occurring in the work place. (3) To disclose information during judicial processes. (4) To provide information to other federal agencies for the purpose of effecting interagency salarly offset or interagency administrative offset. (5) To provide information to consumer reporting agencies in accordance with 31 U.S.C. 3711(f). (6) To provide information to a debt collection agency for debt collection services. (7) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (8) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (9) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (10) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders with corresponding card indexes.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access to information is restricted to official use of IRS employees and not less than that required by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with The Records Disposition Handbook, IRM (15)59.31, RCS 301, GRS 1, 10, 18, IRM 1(15)59.1(14) and IRM 1(15)59.2(12).

SYSTEM MANAGER(S) AND ADDRESS:

For National Office—safety Management Officer, Space and Property Branch, Facilities Management Division, Chief, National Office Facilities Management Branch; Regional and District Offices—Chief, Facilities Management Branch, appropriate Regional or District office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above. Name must be provided to ascertain whether or not the system has a record pertaining to the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine if the system of records contains information pertaining to themselves may inquire in accordance with instructions appearing in 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to any record contained in the system of records to contest its contents, may inquire in accordance with instructions appearing in 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager for each office whose records are to be accessed or contested.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees, private individuals and private parties.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.012

SYSTEM NAME:

Emergency Preparedness Cadre Assignments and Alerting Rosters Files System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key IRS and Treasury personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadre assignments-personal information on employees, i.e., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters-current listing of individuals by name and title stating their work and home address and phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this sytem of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual forms and correspondence kept in file folders.

RETRIEVABILITY:

Cadre assignments are filed by relocation site and alerting rosters by title of list.

SAFEGUARDS:

Records are kept in a secured office.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59 31, GRS 18, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

For National Office—Chief, Physical Security Section, Security Branch, Disclosure and Security Division. For Regional Offices and Service Centers and district offices, Security officer. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Provided by individuals themselves.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS ID-Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees having one or more items of identification and federal and non-federal personnel working in or visiting IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, home address, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders; 3 x 5 inch card files computer memory.

RETRIEVABILITY:

Indexed separately by name and Identification Media serial number.

SAFEGUARDS:

Access to the records is restricted to official use of Internal Revenue. The files are stored in locked security containers in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59.31, GRS, Space and Maintenance Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Security Branch, Disclosure and National Office; Security Officer, Each Region, Service Center and District; and Chief, National Office Protective Programs Staff.

NOTIFICATION PROCEDURE:

Individual's name, SSN, address and type of ID media, plus the approximate date that he/she was issued and/or returned the particular item of identification, would have to be furnished the Service office that issued the item for them to be able to ascertain whether or not their system contains a record about the individual. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

By writing or visiting applicable Service office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information was furnished by each individual at the time they received the particular item of identification.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.014

SYSTEM NAME:

Motor Vehicle Registration and Entry Pass Files System—Treasury/IRS.

SYSTEM LOCATION:

Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requiring continued access to the facility and parking area violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, registered owner of vehicle, branch, telephone number, description of car, license number, employee's signature, name and expiration date of insurance, parking violations, decal number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and card file.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a secured container in a secured office.

RETENTION AND DISPOSAL:

Records are kept until obsolete. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Security Function appropriate Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Mgr. above.

RECORD SOURCE CATEGORIES:

Information is supplied by individual except for parking violations information which is supplied by Security guard personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.016

SYSTEM NAME:

Security clearance files system—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service requiring a security clearance, having their security clearance cancelled or transferred and individuals who have violated IRS security regulations regarding classified national Security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, employing office, date of security clearance, level of clearance, reason for the need for the national security clearance, and any changes in such clearance. Security violations records contain name of violator, circumstance of violation and supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. To provide information to agencies and individuals on a need-fo-know basis to determine the current status of an individual's security clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders.

RETRIEVABILITY:

Indexed by name and cross filed by functional area.

SAFEGUARDS:

Stored in locked security container in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Security Branch, Disclosure and Security Division, National Office, for security violations, and Chief, Employment Branch, Personnel Division, National Office for security clearances.

NOTIFICATION PROCEDURES:

Same as Systems Manager above.

RECORD ACCESS PROCEDURE:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Information is provided by the employee, his/her supervisor or employee's personnel record. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, supervisor's reports, Internal Audit Reports, etc.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.018

SYSTEM NAME:

Integrated Data Retrieval System (IDRS) Security Files—Treaury/IRS

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual employees who input or are authorized to input IDRS transactions or who are subjects of IDRS inputs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record logs of the employees who are authorized access to IDRS and of employee inputs and inquiries processed through IDRS terminals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, disk, flatpaper, lists, and card files.

RETRIEVABILITY:

These records are indexed by employee's SSN or other employee identifying number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules contained in IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Computer Security Section, Security Branch, Disclosure and Security Division, National Office.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center or District Office servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center or District Office servicing the area in which the individual resides. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information supplied by the IRS employee on standard personnel forms and computer generated records of all inputs to IDRS. Data may also be retrieved from other published systems of records used in processing of this system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.001

SYSTEM NAME:

Appeals, Grievances and Complaints Records—Treasury/IRS

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, The National Computer Center and The IRS Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, current and former Federal employees (including annuitants) who submit appeals grievances, or complaints for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by an agency or other appropriate action organization (e.g., Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board) affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Sections 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7105, 7151, 7154, 7301, 7512, 7701, 8347, Executive Order 9830, 10577, 10987, 11222, 11478, 11491, and Pub. L. 92-261 (EEO Act of 1972), and Pub. L. 93-259 (Provisions of ADEA extended to Federal employees).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To provide information to a Member of Congress regarding the status of an appeal, complaintor grievance. (2) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or licensee, where the disclosing agency becomes aware of an indication of a violation or potential civil or criminal law or regulation. (3) To disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (5) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcenent agencies. (6) To provide records and information to the Office of Personnel Management, Merit Systems Protection Board or Equal Employment Opportunity Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (7) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files, flat paper, lists, forms, folders, binder, microfilm and microfiche, punch card, and magnetic media.

RETRIEVABILITY:

Indexed by the names and case number of the individuals on whom they are maintained.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing EEOC regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

(a) EEO Discrimination Complaint Records-Assistant to the Commissioner (EEO), National Office; (b) all other records. Director, Personnel Division, or

Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner Human Resources, National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Locations.) Individuals should provide their name, date of birth, agency in which employed, and the approximate date, and the kind of action taken by the agency when making inquiries about records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals should provide their name, date of birth, POD, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

(a) Individual to whom the record pertains. (b) Agency and/or other authorized Federal officials. (c) Affidavits or statements from employee. (d) Testimonies of witnesses. (e) Official document relating to the appeal, grievance, or complaints. (f) Correspondence from specific organization or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.002

SYSTEM NAME:

Employee Activity Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional, and District Offices, POD's, Service Centers, The National Computer Center, and The IRS Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and information relating to voluntary employee activities and functions which are not directly related to the mission of the IRS or any of its functional components. These records will contain the names of participants and such other information only to the extent that it is necessary for the operation of the activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Section 302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. These records and information in these records may be used: (1) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (2) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (3) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on flat paper, card files, lists, and in folders, and binders.

RETRIEVABILITY:

Indexed by the name of the individuals on whom they are maintained.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is in conformance with existing CSC regulations.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the record, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor of the organizational segment participating in the activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is derived only from the individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center. Payroll records are maintained at the Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees of the IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain data on individuals required by the Office of Personnel Management (OPM) and maintained in the Official Personnel Folder (OPF). The OPF may also contain letters of commendation; awards from non-federal organizations; recommendations for Federal awards; awards; reprimands; adverse or disciplinary charges; records relating to life insurance, health insurance, designation of beneficiary; training; performance ratings; and other records which OPM and IRS require or permit to be maintained in the OPF. This system also includes records which are maintained in support of a personnel action such as a position management or position classification action, a reduction-in-force action (including such documents as retention registers and notices), and priority placement actions. Other records maintained about an individual in this system are evaluation records, including appraisal, expectation and payout records; employee performance file records; suggestion files; award files; financial and tax matters; back pay files; jury duty records; special emphasis programs records, such as Upward Mobility and Handicapped; outside employment statements; clearance upon separation; Unemployment Compensation records; adverse and disciplinary action files; supervisory files; records relating to personnel actions correcting a pay problem; employment of relatives; furlough/recall records; work measurement records; emergency notification, employee locator and current address records; other records relating to the status of an individual; executive resources records and Senior Executive Service records; Management Careers Program records; and correspondence files pertaining to any personnel information contained in this notice. Pyroll records included in this system are data storage and file records system for processing payroll and personnel actions, consisting of records of time and attendance, leave, tax withholding, bond purchases and issuances, emergency salaries, overtime and holiday pay, optional payroll deductions, and minority group designator codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Section 301, 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, September 13, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To provide information to a prospective employer of an IRS employee or former IRS employee. (2) To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations. (3) To provide information to a Federal, state, or local agency, other organizations or individuals in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit. (4) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent agencies. (5) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial process. (6) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies. (7) To provide information or records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto or upon request of such agency when the agency is investigating the possible violation of their rules or regulations. (8) To provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies systems in accordance with applicable laws, Executive Orders, and applicable regulations. (9) To provide information to hospitals and similar institutions or organizations involved in voluntary blood donation activities. (10) To provide information to educational institutions for recruitment and cooperative education purposes. (11) To provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration. (12) To provide information to financial institutions for payroll purposes. (13) To provide information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes. (14) To provide information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to consumer reporting agency for obtaining commercial credit reports; and to a debt collecting agency for debt collection services. (15) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (16) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, discs, forms, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by any combination of name, birthdate, Social Security Number, or identification number.

SAFEGUARDS:

Access Control will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing OPM and GAO regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established retention

schedules, IRM 1(15)59.31 General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, and Chief, Personnel Branch, appropriate office (see IRS Appendix A); Executive Secretary, Executive Resources Board (for executive resource records).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner for each appropriate Division in the National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See Appendix A.) Inquiries should include name, date of birth, social security number and POD.

RECORD ACCESS PROCEDURE:

Individual seeking access to any record contained in the system of record or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Former IRS employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and Social Security Number, to: National Personnel Records Center, General Services Administration, 111 Winnebago St., St. Louis, Missouri 63118.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, except information provided by agency officials. Payroll Information is compiled from existing master records, i.e. employees official personnel folders, or the employee Information, is also obtained directly from an employee, payroll coordinator, or administrative officer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

Treasury/IRS 36.005

SYSTEM NAME:

Medical Records—Treasury/IRS.

SYSTEM LOCATION:

(1) Applicants and current IRS employees: National, Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center. (See Appendix A.) (2) Former IRS employees: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Records may also be maintained in the National Regional and District Offices, POD's Service Centers, the National Computer Center and the Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants for IRS employment. (2) Applicants rejected on medical grounds. (3) Applicants for disability retirement under the Civil Service Retirement Law. (4) IRS employees. (5) Former IRS employees. (6) Visitors of IRS Offices who require medical attention while on the premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applications for IRS employment containing information relating to an individual's medical qualifications to hold a position in the IRS. (2) Applications rejected on medical grounds. Information relating to an applicant's rejection for a position because of medical reasons. (3) Disability retirement records. Information relating to an individual's capability (physical and mental) to satisfactorily perform the duties of the position he or she holds or held. (4) Health unit medical records (Federal civilian employees). Information relating to an employee's participation in an occupational health services program. (5) Qualification examinations (Federal employees). Information relates to pre-employment, or periodic re-qualification medical examinations to assure that the incumbents are qualified (physically and mentally) to satisfactorily perform the duties of the position. (6) Fitness-for-duty examinations. Information relating to a medical examination to determine an individual's physical or mental condition with respect to ability to satisfactorily perform the duties of the position held. (7) Alcohol/drug employee assistance records. Information relating to employee participation in the Federal Civilian Alcoholism and Drug Abuse Program. (8) Injury Compensation Records. Information relating to on-the-job injuries of employees and former employees. (9) Records relating to the Blood Donor Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Medical Information relating to the Retirement, Life Insurance and Health Benefits Programs—5 U.S.C., Chapters 81, 87 and 89. Information for Federal employment—5 U.S.C. 3301. Information relating to the Alcoholism, Drug Abuse and Employee Assistance Programs—Pub. L. 91-616 and 92-255 as amended by Pub. L. 93-282 in regard to confidentiality of patient records. Information relating to the Occupational Health Program (5 U.S.C. 7901).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Information may be provided to other Federal agencies responsible for other Federal benefits programs administered by the Office of Workmen's Compensation Programs; Retired Military Pay Centers; Veterans Administration; Social Security Administration; Office of Personnel Management; Private contractors engaged in providing benefits under Federal contracts. (2) Disclosure of information may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in requests for legal advice. (3) Disclosure may be made during judicial processes. (4) Disclosure may be made to other agencies to the extent provided by law or regulation. (5) Disclosure may be made to the appropriate Federal, state or local agency where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature. (6) Disclosure may be made to Federal, state, or local agencies in order to obtain or release relevant and pertinent information to an agency decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit. (7) Disclosure may be made to the Public Health Service. (8) Disclosure may be made to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate. (9) Disclosure may be made to an agency designated employee representative where such

representative is required by the Office of Personnel Management. (10) Disclosure may be made to hospitals and similar institutions or organizations participating in blood donor activities. (11) Disclosure of Alcoholism, Drug Abuse, and Employee Assistance records are limited under Pub. L. 91–616, 92–255, and 93–282. (12) disclosure may be made to the Equal Employment Opportunity Commission when needed to resolve a complaint. (13) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (14) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (15) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, discs, flat paper, lists, forms, folders, card files, microfilm, and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and/or claim number.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, or Chief, Personnel Branch, appropriate office; Director, Operations Divisions (Office of Chief Counsel), National and Regional Counsels. (See IRS Appendix A for Locations.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for Data Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Location.) Former employees should direct inquiries to: The National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name, and address of office in which currently or formerly employed in the Federal service, and annuity account number, if any has been assigned.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) The individual to whom the record pertains. (2) Private physicians. (3) Medical institutions. (4) Office of Workers' Compensation Programs. (5) Military Retired Pay Systems Records. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) General Accounting Office pay, leave allowance cards. (8) CSC Retirement, Life Insurance and Health Benefits Records System. (9) OPM Personnel Management Records System.

Treasury/IRS 36.008

SYSTEM NAME:

Recruiting, Examining and Placement Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, The National Computer Center and The Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRS employment, current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education, training employment history and earnings, tests, results of written tests, test scores, qualification determinations, evaluations, appraisals of potential, interview records, responses to test items and questionnaires, honors, and awards or fellowships. Other information maintained in the records includes military service, date of birth, birthplace, SSN, home address. Records may also be maintained on suitability determinations, employee participation in special emphasis placement and recruiting programs, and employee turnover records. This system also includes correspondence files relating to the above mentioned records. Personnel research and test validation records are included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307 3309, 3313, 3317, 3318, 3319, 3326, 3349, 4103, 5532, 5533, 5723, and Executive Orders 10577 and 11103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) To disclose information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (3) To disclose information and records to the Office of Personnel Management, Merit Systems Protection Board, or the Equal Employment Opportunity Commission, for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (4) To refer applicants to officials of Federal government agencies for purposes of consideration for placement in positions for which an applicant has applied and is qualified; to state and local governments with permission of an applicant for the purpose of employment consideration; and to refer current IRS employees to Federal agencies for

consideration for transfer, reassignment, and promotion. (5) To educational institutions in connection with recruiting efforts. (6) To disclose information or records where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether federal, state, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule. (8) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (9) To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. (10) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (11) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (12) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, punched cards, discs, card files, lists, flat paper, microfilm, microfiche, forms and folders.

RETRIEVABILITY:

Records are indexed by name, combination of birth date, special security account number, and an identification number that is applicable.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15) 59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, or Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; ServiceCenter Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; or other appropriate official. (See Appendix A.) Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and title of examination or announcement with which concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official as listed above. This system of records may not be accessed for purposes of inspection or for contest of content of Treasury Forms 4825 (Evaluation of Candidates for Initial Executive Placement) and Treasury Form 4245 (Report of Managerial Potential) prepared prior to September 27, 1975.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel on physical qualification; results of examination which are made known to applicants and vouchers supplied by references the applicant lists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been desiganted as exempt from certain provisions of the Privacy Act.

Treasury/IRS 36.009

SYSTEM NAME:

Retirement, Life Insurance and Health Benefits Records System—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's Service Centers, the National Computer Center, and the IRS Data Center (see Appendix A). For former employees: Records Division, Bureau of Retirement, Insurance and Occupational Health, Office of Personnel Management, Boyers, Pennsylvania.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees who are covered by the Civil Service Retirement System. (2) IRS employees who have either declined or are covered by the Federal Employees' Group Life Insurance Program or the Federal Employees Health Benefits Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documentation of Federal service creditable under the Civil Service Retirement System. (2) Documentation of coverage or declination of coverage under the Federal Employees' Group Life Insurance Program, and the Federal Employees Health Benefits Program. (3) Documentation of claim for refund or for annuity benefits under Civil Service Retirement System. (4) Documentation of claim for survivor annuity or death benefits under Civil Service Retirement System. (5) Medical records supporting claims for disability retirement under the Civil Service Retirement System. (6) Designations of beneficiary for benefits payable under the Civil Service Retirement System or the Federal Employees Group Life Insurance Program. (7) All other information necessary to enable offices to recruit annuitants for short term assignments and to send them requested publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapters 83, 87, and 89 of Title 5, United States Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To provide information to the Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system. (2) To provide information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program to the Office of Federal Employees' Group Life Insurance, 4 East 34th Street, New York, N.Y. 10010. (3) To provide information necessary to support a claim for health insurance benefits under the Federal Employees Health Benefits Program to a health insurance carrier or plan participating in the program. (4) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (5) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (6) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (7) To provide information and records to the Office of Personnel Management for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders, and regulations. (8) To provide information to an agency-designated employee representative when such representative is required under Office of Personnel Management regulations. (9) To provide information to hospitals and similar institutions to verify an employee's coverage in the Federal Employees Health Benefits Program. (10) To provide information to the Equal Employment Opportunity Commission when needed to resolve a complaint. (11) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (12) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (13) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, punched cards, discs, forms, flat paper, card files, lists, folders, microfilm, and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, birth date, and by annuity or death claim number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established retention schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, and Chief, Personnel Branch, appropriate office. Director, Operations Division (Office of Chief Counsel), National and Regional Counsels. (See IRS Appendix A for Locations.)

NOTIFICATION PROCEDURE:

(1) Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for Computer Center employees only); Director, Data Center (for Data Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for locations.) (2) If the individual is retired from Federal service he should direct inquiries to: Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. (3) If the individual is not retired, but has been separated from Federal service, he should direct inquiries to: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See Access. Individuals requesting information in this system of records should provide their full name, date of birth, social security number, claim number, if assigned, and the POD in which currently or formerly employed.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources: (1) The individual whom the information is about. (2) GAO Pay, Leave and Allowance Records System. (3) OPM Personnel Management Records System. (4) GSA National Personnel Records Center. (5) OPM Medical Records System. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) Military retired pay system records. (8) Office of Workers' Compensation Programs. (9) Veterans Administration Pension Benefits Programs. (10) Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.001

SYSTEM NAME:

Abandoned Enrollment Applications—Treasury/IRS.

SYSTEM LOCATION:

Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409..

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied for enrollment to practice before the Internal Revenue Service but subsequently abandoned their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for enrollment to practice before the Internal Revenue Service and, in some cases, information regarding individuals' fitness for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original application form and information relating to it fastened to each other.

RETRIEVABILITY:

Indexed by name of applicant.

SAFEGUARDS:

Those safeguards in effect at Federal Record Center.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM: HR: DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they named in this system of records, or gain access to records maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to system manager above.

RECORD ACCESS PROCEDURE:

System manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Applicant, (2) individuals, (3) Internal Revenue Service, (4) other government agencies, (5) and professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.002

SYSTEM NAME:

Applicant Appeal Files—Treasury-IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose applications for enrollment to practice before the Internal Revenue Service have been denied and who have appealed such denial to the Director of Practice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications and eligibility for enrollment to practice before the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed; except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) individuals, (2) Internal Revenue Service, (3) other government agencies, and (5) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.003

SYSTEM NAME:

Closed Files containing Derogatory Information about individuals' practice before the Internal Revenue Service and files of attorneys and certified public accountants formerly enrolled to practice—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue NW., Room 1413, Washington, D.C. 20224. (2) Washington National Records Center National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants, and enrolled agents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollments to practice before the Internal Revenue Service and, derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed, except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DB, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.004

SYSTEM NAME:

Derogatory Information (No Action)—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, enrolled agents and others.

CATEGORIES OF RECORDS IN THE SYSTEM:

Such files contain derogatory information concerning attorneys, certified public accountants, and enrolled agents and others over whom there is no current jurisdiction, where

such information is subject to future development, or where such information is not sufficiently serious to be currently considered a case file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose after 5 years by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.005

SYSTEM NAME:

Present Suspensions and Disbarments Resulting From Administrative Proceeding—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals formerly eligible to practice before the Internal Revenue Service but now either suspended or disbarred from such practice after being accorded due notice and opportunity for hearing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment to practice before the Internal Revenue Service, derogatory and other information regarding such practice, and record of proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) Transfer of information regarding suspension or disbarment of attorneys, certified public accountants and enrolled agents to professional organizations. (2) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.006

SYSTEM NAME:

General Correpondence File—Treasury/OS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and comments from the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folder.

RETRIEVABILITY:

Correspondence is indexed alphabetically by writer.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURES:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this sytem must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to Systems Manager above.

RECORD ACCESS PROCEDURES:

See system manager above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information contained in records of this system has been provided by the writers of correspondence contained in the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.007

SYSTEM NAME:

Inventory—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, and enrolled agents about which alleged misconduct in their practice before the Internal Revenue Service is being reviewed and evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, and information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court,

magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case is closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.008

SYSTEM NAME:

Register of Docketed Cases and Applicant Appeals—Treasury/OS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1314, Washington, D.C. 20224

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom complaints have been filed with the Office of Director of Practice pursuant to Title 31, CFR, Subpart C, § 10.54, for alleged violation of the regulations governing practice before the Internal Revenue Service and individuals who have appealed to the Secretary of the Treasury, the denials of their application for enrollment to practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of actions taken in cases docketed for hearings and record of actions taken on appeals from denials of applications for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In loose-leaf binder.

RETRIEVABILITY:

Indexed by complaint number and by name of the individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) This office, (2) administrative law judges, and (3) Internal Revenue Service.

Treasury/IRS 37.009

SYSTEM NAME:

Resigned Enrolled Agents (action pursuant to 31 CFR, Section 10.55(b))—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals who were formerly enrolled to practice before the Internal Revenue Service and who resigned from such enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications for enrollment to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.010

SYSTEM NAME:

Roster of Former Enrollees—Treasury-IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and certified public accountants who were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, Title 5 U.S. Code, Section 500.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains individuals' names, addresses, professions, the dates of their enrollments, and the expiration dates of such enrollments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S. Code 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In loose-leaf binders.

RETRIEVABILITY:

Indexed by profession (i.e., attorney or certified public accountant) and by the individual's name.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:DR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) Individuals and (2) Internal Revenue Service.

Treasury/IRS 37.011

SYSTEM NAME:

Present suspensions from practice before the Internal Revenue Service—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Records Center, National Archives and Records Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants and enrolled agents who have offered their consent to voluntary suspension from practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, derogatory and other information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1026.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records, maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURE:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 38.001

SYSTEM NAME:

General Training Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, Service Centers National Computer Center, Data Center and posts of duty. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees who have participated in or who may be scheduled for training activities (students, instructors, program managers, etc.). Other Federal or non-Government individuals who have participated in or assisted with training programs (students, instructors, course developers, interpreters, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Variety of records containing information about an individual related to training, such as: course rosters, student registrations, nomination forms, course evaluations, instructor lists, individual development plans, counseling records, examination materials, payment records, and other recordations of training necessary for reporting and evaluative purposes. Some records within this system also may be contained in TR/IRS 36.003, General Personnel Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 41, Title 5 U.S.C.; EO 11348; and FPM 410.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system may be made available to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Information in these records may be used to provide input data for the automated Training CPDF at the Office of Personnel Management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be maintained on magnetic media, computer tapes, index cards, forms, or flat paper.

RETRIEVABILITY:

Computer records are indexed by social security account numbers, course titles, dates of training, location of training, and by specific employee information (i.e., name, title, grade, etc.); other records are indexed by name and course title.

SAFEGUARDS:

Individual computer records are available to those persons at OPM, Treasury, or IRS who are directly involved with the training function.

RETENTION AND DISPOSAL:

All records are disposed of in accordance with established retention schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Training and Development Division; and Chief, Training and Development Branch; Training Manager, Foreign Operations District; at the National Office. Chiefs, Training and Development Branches at Regional and District Offices, and Service Centers. Training managers at computer center and data center. (See Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched. See System Manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the System Manager for each office whose records are to be accessed or contested. See System Manager.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is extracted from participant registration forms, individual development plans, skill surveys, personnel records, and such other forms as may be developed and prescribed by CSC, Treasury, and IRS Training Personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.001

SYSTEM NAME:

Examination Administrative File—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office where the individual resides, or Service Center where return was examined, or Assistant Commissioner (Examination), National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any taxpayer who is being considered for examination or is being examined for tax determination purposes, i.e., income, estate and gift, excise, or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other related sub-files directly related to the processing of the tax case. This system also includes other management material related to a case and used for tax administrative purposes including the appeals process. Includes systems formerly published as 42.018, 42.023, and 42.025.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By taxpayer's name and social security number and employer identification number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Destroyed in accordance with the established retention schedule in IRM 1(15)59.22, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination); Officials maintaining the system—Director of Jurisdictional District Office, or Service Center, or Assistant Commissioner (Examination). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return. (2) Taxpayer's books and records. (3) Informants and third party information. (4) City, state governments. (5) Other Federal agencies. (6) Examinations of related taxpayers. (7) Examinations of other taxpayers. (8) Taxpayer's representative.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)—Treasury/IRS.

SYSTEM LOCATION:

This system is composed of: (1) Computer files located at each jurisdictional IRS Service Center (where tax return is under examination control)—each jurisdictional district (served by an IRS Service Center) has access to the computer file via video terminals; (2) Group control card forms 5345 and 5354 (including temporary and interim processing files for management and control purposes), located at each jurisdictional district office. Items described under (2), above, are subfiles of the AIMS System.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose tax returns are under the jurisdiction of the Examination Division; Examiner.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examiner's name including related internal management information and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer, microfiche, paper.

RETRIEVABILITY:

Social Security number, taxpayer's name, examiner's name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

(1) Computer Record: Examined closings, surveyed claims, and some types of non-examined closings are dropped from the data base 60 days after closing or when assessment verification is completed, whichever is later. The balance of non-examined closing are dropped at the end of the month following the month of closing. (2) Records: Generally, AIMS forms are destroyed within 90 days of the closing. Exceptions include: (a) The charge-out which becomes part of the case file and is sent to the Federal Records Center with the case; (b) Examination requests forms which become the Examination group's controlled card; and (c) The Examination group's control card which is retained in a closed case file for 3 years (in the case of field examinations) and 90 days (in the case of office examinations). Authority: Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination), National Office. Officials maintaining the system—Each jurisdictional (taxpayer's place of residence) District Director; each jurisdictional (the Service Center where taxpayer's tax return was filed) IRS Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURES:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax Returns; examination files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.012

SYSTEM NAME:

Combined Case Control Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District offices (not necessarily carried out in every district). (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers that may be abusing the tax laws through the use of tax shelters, investors in flow-through entities, and taxpayers with suspended issues on their returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax information relating to the tax shelter for use in determining abuses of tax laws.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH UEES:

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, and microfilm.

RETRIEVABILITY:

Taxpayer's identifying number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained until individual projects are completed. Authority: IRM 1(5)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Individual's tax return (2) Related taxpayer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.013

SYSTEM NAME:

Project Files for the Uniform Application of laws as a result of technical determinations and court decisions—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional district office where taxpayer resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals grouped as to project, i.e., individual shareholders of a corporation where a determination having a tax effect has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals and their income tax information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Destroyed in accordance with the established Retention Schedule 1(15)59.12, Records Retention Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Shareholder records. (2) Individual's tax return. (3) Examination of related taxpayer.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.014

SYSTEM NAME:

Internal Revenue Service Employees' Returns Control Files—Treasury/IRS.

SYSTEM LOCATION:

District Office of district where individual resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is employed by the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetic listing of employee income tax return information, including prior examination results and other tax related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

Employee's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Updated periodically and retained as long as individual is employed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of District where individual resides. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employee's tax return.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.016

SYSTEM NAME:

Classification and Examination Selection Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office or related service center where individual resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose returns or claims are classified for examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals or returns and sub-files consisting of financial information and other information considered in classification and selection of an individual's return or claim for examination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, computer printouts, magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Until information is associated with return or two years, whichever occurs first. Authority: Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissiomer (Examination). Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Tax returns. (2) Requests from taxpayer. (3) Requests from Collection Division for prompt examination.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.017

SYSTEM NAME:

International Enforcement Program Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office of district where individual resides; National Office: Examination, Washington, DC. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual having foreign business activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individual, summary of income expenses, financial information as to foreign operations, acquisition of foreign stock, controlling interest of a foreign corporation, organization or reorganization of foreign corporation examination results, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, microfilm, machine sensible magnetic media.

RETRIEVABILITY:

Individual's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physcial and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Updated periodically and retained as long as individual has substantial foreign business activities. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdicational District; Assistant Commissioner (Examination). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act..

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) European treaty countries. (2) Individual's tax returns. (3) Examination of related taxpayers. (4) Public sources of information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.021

SYSTEM NAME:

Compliance Programs and Projects Files—Treasury/IRS.

SYSTEM LOCATION:

Initiated and maintained in National Office, Regional Offices, or jurisdictional District or service center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers that may be involved in tax evasion schemes or areas of noncompliance grouped by industry, occupation, or financial transactions, i.e., return preparers, political contributions, corporate kickbacks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individuals in projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, machine-sensible data media, microfilm, and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records associated with the examination of returns are disposed of in accordance with the established Retention Schedule 1(15)59.22, Records Control Schedule. Records not associated with the examination of returns will be destroyed at the completion of the program or project, or in accordance with IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return, (2) taxpayer's books and records, (3) informants and third party information, (4) city, state government, (5) other federal agencies, and (6) examinations of related taxpayers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.027

SYSTEM NAME:

Data on Foreign Corporations—Treasury/IRS.

SYSTEM LOCATION:

IRS Data Center, Detroit, Michigan; National Office, Examination Division, Washington, D.C.; District Offices; Regional Offices, Philadelphia Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file Form 5471, Information Return with Respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals filing on foreign holdings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in Data Center, Philadelphia Service Center; paper at other listed locations, machine-sensible data media, and microfilm.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Three years or earlier. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination), National Office. Officials maintaining the system—District Directors; Regional Commissioners; Director, Examination Division, National Office; Director, Data Center, Detroit, Michigan; Director, Returns Processing and Accounting Division, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the System of Records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the System of Records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 5471 only.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.029

SYSTEM NAME:

Audit Underreporter Case File, OP:EX—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of income who appear not to have declared on their income tax returns (Forms 1040 and 1040A) all income paid to them in the tax year under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received, and information identifying the income payer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, and 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On magnetic media.

RETRIEVABILITY:

By matching on SSN and name control.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained for one year, then data are magnetically erased. Authority: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination) OP:EX, National Office. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information returns filed by payers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.030

SYSTEM NAME:

Discriminant Function File (DIF), OP:EX—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose Forms 1040 and 1040A have a DIF Score higher than a cutoff score determined by Examination Division, indicating high audit potential. The DIF Score is the computation of Audit potential, based on formulae prescribed by Examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Document Locator Number of the return, the Regional and District Offices of the taxpayer, the taxpayer's DIF Score and data from the individual's Income Tax Return needed to conduct an audit of his return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801. 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

By magnetic tape and computer printout.

RETRIEVABILITY:

By individual's Social Security Number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained for three years. Disposed of thereafter. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Examination. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This System of records may not be accessed for the purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual's tax return information and data on retrieving the return information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.001

SYSTEM NAME:

Appeals Case Files—Treasury/IRS.

SYSTEM LOCATION:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax returns, Revenue Agents' Reports, case correspondence, legal opinions, and Appeals closing actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinets, and magnetic media.

RETRIEVABILITY:

Name of taxpayer.

SAFEGUARDS:

Locked file cabinets, locked doors, need to know.

RETENTION AND DISPOSAL:

Retention as prescribed in Records Disposition Handbook, IRM 1(15)59. Disposal by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to the individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.003

SYSTEM NAME:

Appeals Case Data—Treasury/IRS.

SYSTEM LOCATION:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Provides case control data and management information, utilizing data from system 42.008 and data developed in the appeal process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic media, interactive terminal, diskette, hard disk.

RETRIEVABILITY:

By taxpayer's name and social security number, employer identification number, and by work unit number.

SAFEGUARDS:

IRS personnel on need to know basis and passwords to access system information.

RETENTION AND DISPOSAL:

Retention is prescribed in Records Disposition Handbook. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Appeals Division, National Office, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Regional Director of Appeals. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

See System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Record clerks and Appeals Officers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.002

SYSTEM NAME:

Case Management and Time Reporting System, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National, Regional, and District Offices, Data Center, Service centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of Criminal Investigation Division Investigations, Special Agents, U.S. District Court Judges, and U.S. Attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and financial information developed in criminal tax investigations, potential tax investigations, and in projects including information from other Federal, state, and local agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in binders; magnetic media; computer discs; computer printouts.

RETRIEVABILITY:

Name, case number, and social security number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Regional Commissioners; District Directors; Assistant Commissioner, Criminal Investigation; Director, Data Center, Directors, Service centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be assessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the PrivAcy Act.

Treasury/IRS 46.003

SYSTEM NAME:

Confidential Informants, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices, National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential Informants. Subjects of Confidential Informant's Reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memorandums, index cards, related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of

returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Name, or number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Criminal Investigation, National Office. Officials maintaining the system—District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be assessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.004

SYSTEM NAME:

Controlled Accounts—Open and Closed, Criminal Investigation Division TC 910/TC 914/TC 916/TC 918—Treasury/IRS.

SYSTEM LOCATION:

Service Centers, National Computer Center, District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of criminal tax investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal Investigation Information and Control Notices; list of names and related data; lists of action taken; transcripts of account.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and paper.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Paper destroyed after 1 year. Magnetic tape erased after 3 months. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—District Directors, Service Center Directors, National Computer Center Director. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

District Office Personnel; Service Center Personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.005

SYSTEM NAME:

Electronic Surveillance File, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of electronic surveillance. Individuals who have been subjects of queries by other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to conduct of electronic surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Names, addresses, and telephone numbers.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Permanent; none authorized. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office.

Officials maintaining the system—Director, Criminal Investigation. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.009

SYSTEM NAME:

Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers about whom the Internal Revenue Service has received information alleging a violation of laws within IRS jurisdiction, potential subjects of investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of income tax returns, special agents' reports, revenue agents' reports, reports from police and other investigative agencies, memorandum of interview, question-and-answer statements, affidavits, collateral request and replies, information items, newspaper and magazine articles and other published data, financial information from public records, case initiating documents and other similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Tape, paper, and microfilm.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Paper—shredded after use. Microfilm—destroyed after 5 years. Magnetic tape—erased after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation National Office. Officials maintaining the system—Service Center Directors, District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.011

SYSTEM NAME:

Land Trust Files, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices (Chicago and Springfield), Service Center (Kansas City). (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries of Land Trusts, Related individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of Fiduciary Relationships. Related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfilm, magnetic tape.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation—National Office. Officials maintaining the system—District Directors, Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to District Director for each District whose records are to be searched and Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1,

Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched and Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Financial institutions. Fiduciary reports. Notices of Fiduciary Relationships.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.015

SYSTEM NAME:

Relocated Witnesses, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relocated witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation and Relocation Information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Indefinite retention. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.016

SYSTEM NAME:

Secret Service Details, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Centers, Regional Offices, National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of names, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinet.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Not established.

SYSTEM MANAGER(S) AND ADDRESS:

Official precribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—District Directors, Service Center Directors, Regional Commissioners, Assistant Commissioner, Criminal Investigation. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.022

SYSTEM NAME:

Treasury Enforcement Communications System (TECS), Assistant Commissioner, Criminal Investigation Division —Treasury/IRS.

SYSTEM LOCATION:

National Office.

CATEGORIES OF INDIVIDUALS COVERED BY TH SYSTEM:

Fugitives, subjects of open and close criminal investigations, subjects of potential criminal investigations,

subjects with Taxpayer Delinquent Accounts against whom Federal Tax Liens have been filed, and other subjects of potential interest to criminal investigation such as witnesses and associates of subjects of criminal investigations or related to a matter under Criminal Investigation jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, Social Security Number, address, identifying details, aliases, associates, physical descriptions, various identification numbers, details and circumstances surrounding the actual or suspected violator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc.

RETRIEVABILITY:

By name, social security number, or other unique identifier.

SAFEGUARDS:

Controls will not be less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Fugitives until apprehended. Other records are deleted when no longer of potential use for criminal investigation case or informational purposes. Cancellation after 10 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Assistant Commissioner, Criminal Investigation, National Office.

NOTIFICATION PROCEDURES:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.001

SYSTEM NAME:

Disclosure Records; Disclosure—Treasury/IRS.

SYSTEM LOCATION:

National Office, National Computer Center, Data Center, Regional Offices, Service Centers, and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Subjects or requests for disclosure initiated by the Department of Justice, including suspects or persons related to the violation of Federal laws; persons who have initiated legal actions against the Federal Government; persons identified as strike force targets or related to organized crime activities; persons under investigation for national security reasons; persons believed by the Internal Revenue Service to be related to violations of Federal laws other than the Internal Revenue Code. (2) Persons under investigation by other executive departments or congressional committees for whom tax information has been requested pursuant to 26 U.S.C. 6103. (3) Persons who are parties to criminal or civil non-tax litigation in which the testimony of IRS employees has been requested. (4) Persons who have applied for Federal employment or presidential appointments for which pre-employment tax checks have been requested, and applicants for Department of Commerce "E" Awards. (5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act, 5 U.S.C. 552, and initiators of requests for access, amendment, or other action pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. (6) Individuals identified by or initiating correspondence or inquiries processed or controlled by the Disclosure function or relating to the foregoing subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for records, information or testimony, responses to such requests, supporting documentation, processing records, copies of items provided or withheld, control records, and related files. Department of Justice, and IRS replies to such requests. (2) Copies of related authorizations to IRS officials permitting such disclosures and, in some instances, their responses. (3) Copies of individuals' tax information, memoranda for file, notations of telephone calls, file search requests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802; 26 U.S.C. 6103; 5 U.S.C. 301, 552, and 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes, and necessary to report apparent violations of law to appropriate law enforcement agencies. Disclosure of debtor information may be made to a Federal payor agency for purposes of salary and administrative offsets, to a consumer reporting agency to obtain commercial credit reports, and to a debt collection agency for debt collection services. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)12: Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in alphabetical or chronological order within subject categories and/or such automated or electronic recordkeeping equipment as may be locally available. No centralized index exists. Accountings of disclosure of tax related records pursuant to 5 U.S.C. 552a(c) or 26 U.S.C. 6103(p)(3) are posted to the Individual Master File and retrievable by Social Security Number, or to the Business Master File and

retrievable by Employer Identification Number.

RETRIEVABILITY:

Records are generally retrievable by name of individual, although category of record and chronological period may be necessary to retrieve some records. The Social Security number is necessary to access accountings of disclosure posted to the Individual Master File. The Employer Identification Number is necessary for access to the Business Master File.

SAFEGUARDS:

Safeguards will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, Disclosure and Security Division. Officials maintaining the system—Director, Disclosure Security Division, National Office; Regional Commissioners, District Directors, Service Center Directors, or other official receiving or servicing requests for records. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Requesters seeking to determine if accountable disclosures about them have been made should request an accounting of disclosure pursuant to 5 U.S.C. 552a(c) and 26 U.S.C. 6103(p)(3) of the District Director for the area in which they reside. This system may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for disclosure, records being evaluated and processed for disclosure, and related information from other systems of records. Portions of this system may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 48.008

SYSTEM NAME:

Defunct Special Service Staff File being retained because of Congressional directive, Disclosure—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of violating the Internal Revenue laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Revenue Service Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports; and news media articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This file is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished August 13, 1973. Disclosure of information contained in this System of Records may be made to the Department of Justice in connection with actual or potential litigation. Access to the system is limited to Congressional Committees and individuals making Freedom of Information requests pertaining to themselves.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained alphabetically by individual and organization contained in vault at IRS National Office.

RETRIEVABILITY:

By alphabet.

SAFEGUARDS:

Access controls are in conformance with provisions of the Physical and Document Security Handbook, IRM 1(16)41. No IRS official has access to these records except for retrieval purposes in connection with Congressional or Freedom of Information inquiries and litigation cases.

RETENTION AND DISPOSAL:

Records are being maintained solely for Congressional Committees at their request. When the Congressional Committees have completed their inquiries, the records will be destroyed except for those documents pertaining to pending litigation. Those records will be destroyed upon direction by the Court having jurisdiction over the documents. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Disclosure and Security Division, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the System of Records contains a record pertaining to themselves may address inquiries to the Director, Disclosure and Security Division, National Office. (See IRS Appendix A for location.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any System of Records may inquire in accordance with the instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director, Disclosure and Security Division, National Office. (See IRS Appendix A for location.) In addition, this System may contain some records provided by other agencies which are exempt from the Access and Contest provisions of the Privacy Act as published in the Notices of the Systems of Records for those agencies.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies, and examinations of related or other taxpayers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Information from an exempt system of records duplicated in this system of records retains the exempt status.

Treasury/IRS 49.001

SYSTEM NAME:

Collateral and Information Requests System—Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at Foreign Operations

District Office, 1325 K Street, N.W., Washington, D.C. 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director, Foreign Operations District.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF REOCRDS IN THE SYSTEM:

Record of interviewing witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records. These records relate to tax investigations conducted by the U.S. Internal Revenue Service where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments. The records also include individual case files of taxpayers on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records.

RETRIEVABILITY:

By Taxpayer Name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records of examinations of taxpayers, interviews of witnesses, etc., where some aspects on an investigation must be pursued in foreign countries pursuant to various tax treaties between the United States and foreign governments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.002

SYSTEM NAME:

Competent Authority and Index Card—Microfilm Retrieval System—Treasury/IRS.

SYSTEM LOCATION:

Foreign Operations District Office, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual case files of taxpayers who request relief from double taxation or any other assistance that is pertinent to carrying out the provisions of income tax treaties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802, and applicable treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

May be disposed of after 10 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of the records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for relief from double taxation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

SYSTEM NAME:

Financial Statements File—Treasury/IRS.

SYSTEM LOCATION:

Foreign Operation Districts, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who submitted financial statements when interviewed overseas by examination division employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial Statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 2 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries may be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Overseas examination division employees.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 49.007

SYSTEM NAME:

Overseas Compliance Projects System—Treasury/IRS

SYSTEM LOCATION:

The central files for this system are maintained at the Foreign Operations District, 1325 K Street, NW., Washington, D.C., 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of Foreign International District.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from state and gift tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Documents and data relating to income and expenses items concerning income, estate and gift tax returns.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

SYSTEM NAME:

Taxpayer Service Correspondence System—Treasury/IRS.

SYSTEM LOCATION:

This system is separately maintained by each one of the 15 overseas posts of the Office of the Foreign Operations Districts, located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Kuala Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan; as well as Vancouver, Canada. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from taxpayers, foreign post personnel, and Foreign Operations District headquarters offices in Washington, D.C.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 2 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, DC 20225.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and Foreign Operations District's foreign posts and headquarter's offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 50.001

SYSTEM NAME:

Employee Plans/Exempt Organizations, Correspondence Control Record (Form 5961)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requestors of letter rulings, and subject of field office requests for technical advice and assistance and other correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, date, nature and subject of an assignment, and work history. Sub-systems include case files that contain the correspondence, internal memoranda, and related material. They also include digests of issues involved in proposed revenue rulings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfiche.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Security will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1(15)59.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (EP/EO), National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals requesting rulings or information and field offices requesting technical advice or assistance.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 50.003

SYSTEM NAME:

Employee Plans/Exempt Organizations, Report of Significant Matters in Technical (M-5945)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in Technical" has been prepared because of the presence of a matter significant to tax administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of "Reports of Significant Matter in Technical."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1(15)59.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Employee Plans/Exempt Organizations, National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in EP/EO" has been prepared.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 60.001

SYSTEM NAME:

Assault and Threat Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and the Federal Records Center, as well as Collection Offices at IRS National office, Regional Offices, District Offices, and Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attempting to interfere with the administration of the Internal Revenue laws through threats, assaults or forcible interference of any officer or employee while discharging the official duties of his position, or individuals classified as potentially dangerous taxpayers, based on verifiable evidence or information that fit the following criteria: (1) Taxpayers who physically assault an employee; (2) taxpayers who have on hand a deadly or dangerous weapon when meeting with an employee and it is apparent their purpose is to intimidate the employee; (3) taxpayers who make specific threats to do bodily harm to an employee; (4) taxpayers who use animals to threaten or intimidate an employee; (5) taxpayers who have committed the acts set forth in any of the above criteria (1) through (4), but whose acts have been directed against employees of other governmental agencies at Federal, state, county, or local levels; and (6) taxpayers who are not classifiable as potentially dangerous through application of the above criteria (1) through (5), but who have demonstrated a clear propensity toward violence through acts of violent behavior to a serious and extreme degree within the five-year period immediately preceeding the time of classification as potentially dangerous.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint. (2) Documentary evidence (i.e., threatening letter). (3) Report of investigation, with possible statements, or affidavits as exhibits, and related tax information. (4) Report of legal action, if case is prosecuted. (5) Local police record of individual named in case. (6) FBI record of individual named in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7608, 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Documents Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.002

SYSTEM NAME:

Bribery Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and/or former employees of the Treasury Department; taxpayers and non-IRS persons whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Report of investigation including exhibits, affidavits, transcripts, and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring. (2) Report of legal action concerning the results of prosecution. (3) Prior criminal record of subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation of potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16) 41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15) 59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.003

SYSTEM NAME:

Conduct Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of Internal Revenue Service, and other Bureaus and Services within the Department of the Treasury.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing complaint of alleged misconduct or violation of statute. (2) Report of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during investigation. (3) Report of action taken by management personnel adjudicating any misconduct substantiated by the investigation. (4) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security

clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records; Taxpayers (Complainants, Witnesses, Confidential Informants); Other Federal Agencies, State, and local agencies; Tax Returns and related documents; Personal observations of the investigator; and subjects of the investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.004

SYSTEM NAME:

Disclosure Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Internal Revenue Service employees and/or Government contract employees at IRS Facilities who have allegedly disclosed confidential tax information. (2) Federal, State, and local government employees who have allegedly disclosed confidential Federal tax information. (3) Tax return preparers who have allegedly disclosed confidential Federal tax information, et. al.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint of the alleged criminal or administrative violation. (2) Investigative report, including statements, affidavits and any other pertinent documents supporting the investigative report, which will be attached as an exhibit. (3) Report of legal action if case is accepted by U.S. Attorney for prosecution. (4) Report of action by management personnel if case is referred for administrative adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the buresu's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provded for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.005

SYSTEM NAME:

Enrollee Applicant Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees and non-IRS persons who apply for enrollment to practice before IRS under the provisions of Circular 230.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports on non-IRS employees covered derogatory results of checks of: FBI files; Inspection files; local police; Examination and Criminal Investigation and Collection Division files; and verification of Federal tax filing status. Also, appropriate documents attached as exhibits showing results of above file checks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection), National Office.

RECORD ACCESS PROCEDURES:

Same as Notification section.

RECORD SOURCE CATEGORIES:

Internal Revenue Service, Federal Bureau of Investigation, local police departments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 60.006

SYSTEM NAME:

Enrollee Charge Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees or former employees, tax practitioners, attorneys, certified public accountants, or enrolled persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint or request for investigation alleging criminal or administrative misconduct affecting IRS integrity. A report of investigation, including exhibits such as affidavits, statements or documents which have been reviewed. A report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, 7608.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security

clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section above.

CONTESTING RECORD PROCEDURES:

Same as Notification section above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, other Federal agencies, Taxpayers/Complainants, State and local agencies, tax returns, newspapers, persons acquainted with the individual under investigation, subjects of the investigation, and personal observations of the investigator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.007

SYSTEM NAME:

Miscellaneous Information File, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Internal Revenue Service; Tax Practitioners (Attorneys, Certified Public Accountants, Enrolled Persons, Return Preparers); alleged tax violators; persons whose actions or alleged actions indicate a threat to IRS employees, facilities, or the integrity of the tax system; confidential informants; and reputed members of the organized criminal element.

Categories of records in the system: (1) Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. (2) Allegations of bribery and gratuities by taxpayers and/or their representatives which are not by themselves specific or significant enough to initiate an investigation when received. (3) Allegations of misconduct by tax practitioners, enrolled persons, or tax preparers which are not by themselves specific or significant enough to initiate an investigation when received. (4) Any information received or developed by Inspection that has a bearing on IRS, but is not of itself specific or significant enough to initiate an investigation when received. (5) Information received by Inspection pertaining to alleged violations enforced by other agencies or Divisions of IRS, copies of which are referred to those respective agencies or divisions. (6) Photographs and descriptive data of some IRS employees and of persons arrested by Inspection. (7) Information concerning lost or stolen Government documents, property, credentials, or IRS employee personal property lost or stolen on Government premises. (8) List of persons in State or Local Government agencies working under State agreements and having access to Federal Tax information. (9) Newspaper or periodical items about IRS. (10) Newspaper items regarding attorneys, CPA's, Tax Practitioners, or Return Preparers arrested, indicted, convicted or under investigation by other agencies. (11) Allegations of threats, assaults, forcible interference, or other violence type activity aimed at employees or facilities of IRS which are not by themselves specific or significant enough to initiate an investigation when received. Information regarding Inspection's mission which does not fall into any of the above categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM; 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counselor witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual, subject, or incident involved, by name at cross-referenced third parties, and/or information item number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59. Informant files are retained as long as informant remains active.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7851(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, newspapers and periodicals, taxpayers (complainants, witnesses, and informants), State and local government agency personnel and records, and anonymous complainants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.008

SYSTEM NAME:

Security, Background and Character Investigations Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective employees of Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Bureau of Accounts, Bureau of Engraving and Printing, United States Mint, Bureau of the Public Debt, Financial Management Service [formerly Bureau of Government Financial Operations], U.S. Savings Bonds Division, Federal Law Enforcement Training Center, and Private Contractors at IRS Facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Federal Employment Application Forms. (2) Results of National Agency Checks (prior reports and records from FBI Investigative Files, Fingerprint Files, Office of Personnel Management, Defense Central Index of Investigations, House Committee on Internal Security, and Coast Guard Intelligence). (3) Employee's Tax Account History. (4) Results of Employees Tax Examination. (5) Employee's Financial Statement. (6) A summary report, a narrative report, notes and/or written replies resulting from the investigator's inquiries into the subject's scholastic record, prior employment, military service, references, neighbors, acquaintances, or other knowledgeable sources, police records, and past credit record. (7) Report of action taken by management personnel adjudicating any derogatory information developed by the investigation. (8) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; E.O. 10450; E.O. 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection Personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

Same as Notification section.

RECORD SOURCE CATEGORIES:

Employment Application Forms submitted by subject of investigation. Financial information from subject. Federal, State, and local government agencies (police, court, and vital statistics records). Credit reporting agencies. Neighbors (former and present). References. Former and present employers and co-workers. Other third party sources. Schools. Tax Returns and Examination Results. Information provided by the individual under investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.009

SYSTEM NAME:

Special inquiry Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees of the Treasury Department and the Internal Revenue Service. Non-employees whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint from some source alleging criminal or administrative misconduct affecting Internal Revenue Service integrity. Reports of integrity reviews and tests for deterrence and detection of fraud or corrupt practices and serious control weaknesses. A report of investigation to resolve the complaint or the suspected problem detected by integrity reviews and tests, including exhibits of IRS or public documents reviewed during the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, subject, other identifier, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Taxpayers (Complainants, Witnesses, Confidential Informants); Federal, State, and local government agencies' personnel and records (police, court, property, etc.); newspapers or periodicals; Department of the Treasury personnel and records; financial institutions; and other private business records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.010

SYSTEM NAME:

Tort Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of the Treasury and non-Federal persons involved in accidents on property under Department of the Treasury jurisdiction or with Department of the Treasury employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigation including exhibits such as SF–91, Operator's Report of Motor Vehicle Accident; SF–91A, Investigation Report of Motor Vehicle Accident; SF–92A, Report of Accident Other Than Motor Vehicle; SF–94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose informations to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Some of the records in this system may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Inspection), National Office.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records; Federal, State, and local police agencies; witnesses; subjects involved in the investigation; hospitals (medical records); doctors (medical records and personal observations); personal observations of the investigator; automobile repair facilities; insurance companies; attorneys; Federal, State, and local driver license records; and Federal and State vehicle registration records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 70.001

SYSTEM NAME:

Individual Income Tax Returns, Statistics of Income—Treasury/IRS.

SYSTEM LOCATION:

Primary—Internal Revenue Service Data Center. Secondary—(1) Internal Revenue Service, Statistics Division. (2) Treasury Department, Offices of Tax Analysis and Computer Science. (3) Health and Human Services Department, Parklawn Computer Center. (4) Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers selected for an annual statistical sample.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions deductions, income tax, and tax credits, as reported on Forms 1040 and 1040A, U.S. Individual income tax return; and demographic characteristics as reported on Form SS–5, Application for a Social Security number. The records are used to prepare and publish annually statistics, with respect to the operations of the tax laws and for special statistical studies and compilations. The statistics, studies, and compilations are designed so as to prevent disclosure of a particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 6108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records and magnetic media.

RETRIEVABILITY:

Each magnetic tape record is identified by social security number and a unique Document Locator Number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer. Input records that are copies of tax returns and other input records for high income taxpayers for tax years prior to 1967 are identified by name and address.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Input records disposed after publication of the statistics, except for input records for high income taxpayers for tax years prior to 1967 which are disposed after 40 years. Output records retained permanently. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Returns and Information Processing), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

Primary—Forms 1040 and 1040A, U.S. Individual Income Tax Returns. Secondary—Form SS-5, Application for a Social Security Number.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from Privacy Act provisions relating to notification, access, and contest.

Treasury/IRS 80.001

SYSTEM NAME:

Artist File, Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Famous or noted artists whose works have been evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioner's Art Panel decisions on values of works of art by named artists and appraisal documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 27 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

System has been retained since 1968. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Appraisal documentation and Art Panel decisions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 80.002

SYSTEM NAME:

Expert witness and fee appraiser files, Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for litigation and fee appraisers for art valuation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketches, application letters, or list of names by specialty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. (1) To disclose information Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential

violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Varied, generally from the named individual, often unsolicited.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 80.003

SYSTEM NAME:

Correspondence Control and Records, Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter rulings, technical advice, memorandum, and other correspondence from the Office of the Associate Chief Counsel (Technical).

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards and disks containing taxpayer names, date of correspondence, issue, and related information, including in some cases the conclusions reached, and related letter ruling, technical advice, memorandum, and other correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and as necessary to report apparent violations of law to appropriate law enforcement agencies. These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by name and control number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16) 41.

RETENTION AND DISPOSAL:

Cards and disks are periodically updated and maintained as long as needed. Related files are destroyed or retired over varying numbers of years as

specified in the Records Control Schedule, IRM 1(15)59.1(10).

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instruction appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individual seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter rulings, technical advice, memorandums, and other correspondence; field office personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.001

SYSTEM NAME:

Chief Counsel Criminal Tax Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers and related parties against whom tax-related criminal recommendations have been made. (2) Taxpayers and related parties under investigation for criminal tax-related violations who have corresponded with the Regional Counsel's Office. (3) Taxpayers and related parties on whom advice has been requested concerning investigation for tax-related offenses. (4) Potential witnesses in criminal tax investigations. (5) Investigative subjects in connection with Organized Crime Drive, Strike Force, Narcotics Project, or HUD project.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Legal and administrative files including investigative reports. (3) Correspondence files. (4) Information on potential witnesses, including expert witnesses. (5) Special project files such as Organized Crime Drive, Narcotics Project, and HUD project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are locked up during nonworking hours and during periods when the work area is vacant. Access is strictly controlled and limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the FRC and disposed of 5 years after they are closed. Duplicate National Office legal files are retained in the Division 1 year after they are closed in the field. Other records are retained in the Division for the same time periods described above. Files transferred from other Divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Criminal Tax Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as it is exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for the purposes of inspection

or for contest of content of records as it is exempt under 5 U.S.C. 552a(j)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses, informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.002

SYSTEM NAME:

Chief Counsel Disclosure Litigation Division Case Files—Treasury/IRS.

SYSTEM LOCATION:

Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who communicate with the Service regarding disclosure matters or who are involved with a disclosure issue involving the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files; (2) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply, cross-referenced third parties, issues, and by case number.

SAFEGUARDS:

A background investigation is made on personnel. Division offices are located in a security area. Access to keys to these offices is restricted. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after they are closed. The FRC will retain "significant case" files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 5 years after they are transferred to the FRC and disposed of 6 years after they are closed. Other records, are retained in the Division for the same time periods as described above.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purpose of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Persons who communicate with the agency regarding disclosure matters; Department of Treasury employees; State, local, and foreign governments; other Federal agencies; witnesses; informants; parties to disputed matters of fact or law.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.003

SYSTEM NAME:

Chief Counsel General Administrative Systems. Each of the 7 Regional Counsel Offices and 49 District Counsel Offices, each of the 9 Divisions in the National Office, the Office of the Chief Counsel, and the Office of the Deputy Chief Counsel, Associate Chief Counsels (Litigation and Technical) maintain a General Administrative System. This notice applies to all 68 of these systems.—Treasury/IRS.

SYSTEM LOCATION:

The location of these systems are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Past, present, and prospective employees of the Chief Counsel's Office. (2) Tax Court Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Employee records other than Official Personnel Files of the Office of Personnel Management and the Merit System Protection Board. (2) Time and attendance Rosters. (3) Financial records, such as travel expenses, Notary Public expenses, moving expenses, expenses of Tax Court witnesses, and miscellaneous expenses. (4) Employee recruiting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose information to the Office of Personnel Management and the Merit System Protection Board for appropriate Personnel actions. (3) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (4) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (5) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (6) To disclose information to foreign governments in accordance with formal or informal international agreements. (7) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (8) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (9) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (10) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are generally retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are updated periodically to reflect changes and maintained as long as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. Each Division Director is the system manager of the system in his or her Division. The Chief Counsel, the Deputy Chief Counsel, and the Associate Chief Counsels (Litigation) and (Technical), are the system managers of the system in each of their Offices. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees, Department of Treasury Personnel; Tax Court witnesses; Office of Personnel Management and Merit System Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.004

SYSTEM NAME:

Chief Counsel General Legal Services Case Files. Each of the seven Regional Counsel Offices and the National Office do or will maintain a General Legal Services Case File System. The information in this notice applies to all eight systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office and each Regional Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in litigation, actions, investigations, or cases falling within the jurisdiction of the General Legal Services function, including persons (1) who have caused service of subpoenas, summonses, or other judicial processes directed to an officer or employee of the Treasury Department in his official capacity; (2) who are parties in personnel matters, as well as discrimination and labor management relations matters, of the Internal Revenue Service, Chief Counsel's Office, or, in some instances, other constituent units of the Treasury Department; (3)

who are parties in practitioner actions under the jurisdiction of the Director of Practice or the Joint Board of Actuaries; (4) who are parties in procurement matters and under the Federal Claims Collection Act; (5) who are parties in litigation or administrative claims involving alleged violations of the United States Constitution, the Federal Tort Claims Act, the Military Personnel and Civilian Employee Compensation Act, relief of accountable officers for loss of Government funds, rewards, acts of officers or employees acting within the scope of their employment, or official acts of officers or employees not directly relating to Federal tax issues but relating to the Internal Revenue Service; (6) who are parties in miscellaneous matters referred to the General Legal Service Division; (7) who are the subjects of investigations made by the Internal Security Division if the case is referred to the General Legal Services Division; (8) who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in forfeiture matters, judicial or administrative; (9) who are officials of the Internal Revenue Service and Chief Counsel's Office required to file a Financial Disclosure Statement under the Ethics in Government Act of 1978; (10) who have corresponded regarding a matter under consideration within the General Legal Services Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal case and administrative case files. (2) Internal Control Cards. (3) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purposes of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To provide information to the Director of Practice and Joint Board of Actuaries in practitioner disciplinary matters. (11) To provide information to the Office of Personnel Management in personnel, discrimination, and labor management matters. (12) To provide information to arbitrators, the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board, and the Federal Mediation and Conciliation Service in labor management matters. (13) To provide information to the Merit Systems Protection Board in Personnel, Discrimination, and Labor Management matters. (14) To provide information to the Equal Employment Opportunity Commission in Personnel, Discrimination, and Labor Management matters. (15) To provide information to the Special Counsel of the Merit Systems Protection Board in Personnel, Discrimination, and Labor Management matters. (16) To provide information to the General Services Administration in property management matters. (17) To provide information to Federal, state, and foreign government agencies to the extent necessary to obtain records in their possession. (18) To provide information to the Administrative Assistant of the Executive Reources Board as to Financial Disclosure Statements, who makes the statements available to the public as required by law. (19) To provide information to other Federal agencies for the purpose of effectuating inter-agency salary offset or inter-agency administrative offset. (20) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply. If more than one person is involved in a given case, then it is generally retrievable only by the first named person.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after the cases are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the center and disposed of 5 years after they are closed. Other records are retained in the Division for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the system in his or her Region. The Director of the General Legal Services Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.005

SYSTEM NAME:

Chief Counsel General Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers or other individuals involved in matters referred to the General Litigation function including: (a) Taxpayers with outstanding tax liabilities or with potential outstanding tax liabilities; (b) persons from whom information is being sought (summons); (c) persons requesting information (disclosure); (d) present or former Internal Revenue Service employees who are being or may be sued in connection with their duties or who have been called upon to testify in private litigation; (e) persons who are or may be liable to the United States on non-tax claims; (f) persons who have submitted offers in compromise of federal taxes. (2) Persons who have corresponded regarding a matter under consideration within the General Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal and administrative files. (2) Internal Control Records. (3) Offer in Compromise files. (4) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To provide information to other Federal agencies holding funds of taxpayer for the purpose of collecting a liability owed by the taxpayer. (2) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (3) To provide information to State and local taxing authorities for purpose of enforcing federal tax laws. (4) To provide information to Federal, State, and local regulatory authorities for purposes of collection of Federal taxes. (5) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (6) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (7) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (8) To disclose information to foreign governments in accordance with formal or informal international agreements. (9) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (10) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (11) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (12) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

National Office, Regional, and District Counsel legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 24 years and dispose of them 25 years after the cases are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are retained in the Division for the same time periods described above. Files transferred from other divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the General Litigation Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of this Privacy Act.

Treasury/IRS 90.006

SYSTEM NAME:

Chief Counsel Interpretative Division Case Files—Treasury/IRS.

SYSTEM LOCATION:

Interpretative Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers concerning whom legal issues have been referred to the Interpretative Division or the Employee Plans and Exempt Organizations Division for opinion.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Files and Advisory Legal Opinions; (2) General Counsel Memorandums; (3) Office Memorandums; (4) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To provide information to the Social Security Administration to consult about a matter involving legal issues concerning the imposition of Social Security taxes. (11) To provide information to the Department of Labor or the Pension Benefit Guaranty Corporation concerning the Employee Retirement Income Security Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

General Counsel Memorandums, Office Memorandums, and Internal Control Records are periodically updated to reflect changes and maintained as long as needed. Legal files are transferred to the Federal Records Center (FRC) 6 years after the cases are closed and disposed of 25 years after they are closed. Other records are generally retained in the Division for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Interpretative Division, Internal Revenue Service, Office of the Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Director, Employee Plans and Exempt Organizations Division, same address.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.007.

SYSTEM NAME:

Chief Counsel Legislation and Regulations Division Correspondence and Private Bill Files—Treasury/IRS.

SYSTEM LOCATION:

Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who have corresponded to the Service, the Department of the Treasury, the White House, or Members of Congress regarding a matter in which the Legislation and Regulations Division or the Employee Plans and Exempt Organizations Division was asked to draft a reply. (2) Persons on whose behalf private relief bills were introduced in Congress involving tax related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence files. (2) Private Relief Bill Legal Files. (3) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessry to obtain information pertinent to the investigation. (10) To provide information to the agency or individual who directed correspondence to the Legislation and Regulations Division for the Division to draft a response.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Correspondence files are retrievable by the name of the individual who initiated the correspondence. Private Relief Bill files are retrievable by the H.R. or S. number for each Congress.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Correspondence files are geneally disposed of after 3 years. Private Relief Bill files are periodically updated to reflect changes and are maintained as long as needed. Internal control records are generally disposed of after 2 years or when no longer useful. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Director, Employee Plans and Exempt Organization Division, same address.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Persons who initiate correspondence referred to the Legislation and Regulations Division; Congressional documents; taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; state, local, and foreign governments; witnesses; informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.009

SYSTEM NAME:

Chief Counsel Tax Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have filed petitions with the Tax Court or suits for refunds of Federal taxes. (2) Taxpayers upon whom the issuance of a statutory notice is or was contemplated whose case has been referred to the Tax Litigation function. (3) Taxpayers who are the

subject of formal or informal advisory opinions during the investigative stage of the case or while under administrative processing. (4) Persons who have corresponded regarding a matter under consideration within the Tax Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files. (2) Internal Control Records. (3) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, state, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or 'necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are periodically updated to reflect changes and maintained as long as needed. Files transferred from other divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Tax Litigation Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.010

SYSTEM NAME:

Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have sought Internal Revenue Service rulings and/or legal opinions on tax problems and those whose cases are being or have been adjudicated.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Briefs. (3) Legal Opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Justice Department personnel for research purposes. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to

a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are kept in a secured area. Access is limited to authorized personnel. Users of the system must show IRS identification and sign a register each time the room is used. Background checks are made on employees.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; Department of Justice personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; State, local, and foreign governments; parties to disputed matters of fact and law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.011

SYSTEM NAME:

Employee Recruiting Files Maintained by the Operations Division—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for attorney positions with the Chief Counsel's Office, both National Office and field, and persons who have applied for non-attorney positions in the National Office only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant Files and lists of eligible applicants, Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions. (11) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

The applicant files and other records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Applicants, Department of Treasury Personnel; Office of Personnel Management; Other Federal Agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.013

SYSTEM NAME:

Legal case files of the Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation) and (Technical)—Treasury/IRS.

SYSTEM LOCATION:

Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose cases at one time involved important issues or unusual circumstances which were brought to the attention of the above persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal case files which include internal control records of such case files of both the persons currently holding the above positions and those who previously held such positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records pertaining to individuals are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURE:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.014

SYSTEM NAME:

Management Files Maintained by Operations Division and the Deputy Chief Counsel other than the Office of

Personnel Management's Official Personnel Files—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The location of the Executive Resources Board Files is: Deputy Chief Counsel, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of Chief Counsel's Office, both National Office and field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains some materials which are duplicated materials contained in the Official Personnel File, and includes material such as: Transfer and reassignment requests, miscellaneous correspondence, personnel listings, information regarding employees' participation in training programs, resumes, information on loss suffered by employees who are theft victims, on FTS, list of bus tokens issued, list of parking permits, records or requests for use of GSA vehicles, case assignments, and financial information on employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, Executive Order 11222, and Executive Order 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions (11) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The system manager of the Executive Resources Chief Counsel Board Files is: Deputy Chief Counsel, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees; Department of the Treasury personnel; Office of Personnel Management and Merit System Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.015

SYSTEM NAME:

Reference Records of the Library in the Office of Chief Counsel—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have sought Congressional tax relief by means of a Private Bill. (2) Taxpayers involved in tax litigation. (3) IRS employees who charge out books.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Numerical and alphabetical listing of Private Relief Bill and files related to the Bill. (2) Reference cards for tax cases. (3) Charge cards and inter-library loan forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for

investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the individual to whom they pertain and Private Bill material can also be retrieved by H.R. or S. number.

SAFEGUARDS:

Although access is limited to authorized individuals, this material would be available to any person through a Freedom of Information Act request.

RETENTION AND DISPOSAL:

Records are regularly updated. If the library materials to which the references pertain are no longer in the library collection, the reference cards are destroyed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitutional Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Material to which reference information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.016

SYSTEM NAME:

Reports and Information Retrieval Activity Computer and Microfilm Records (Counsel/Appeals Tracking System)—Treasury/IRS.

SYSTEM LOCATION:

Computer Records: Internal Revenue Service Data Center, 1300 John Lodge Drive, Detroit, Michigan 48226 (and a commercial vendor to be identified later for FY 1983–1986 system development). Microfilm Records: Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C., 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who initiated suits for refund in district courts or the Claims Court. (2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the collection of taxes. (5) Taxpayers whose cases were the subject of technical advice memoranda to the Solicitor General and similar advisory memoranda. (6) The Counsel/Appeals Tracking System to be developed during fiscal years 1983–1986 will act as a control and management information system for the following Chief Counsel systems of records: Treasury/IRS 90.001, 90.002, 90.003, 90.004, 90.005, 90.006, 90.007, 90.009, 90.010, 90.011, 90.013, 90.014, and 90.015. The system will contain control records concerning the categories of individuals identified in these systems. Control records concerning individuals who have, or had, cases pending with the Appeals Division will also be included in the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Skeletal legal files. (2) Indexes. (3) Actions on Decisions. (4) Case Abstracts. (5) Technical Advice Replies by the Tax Litigation Division. (6) Miscellaneous Advisory Memoranda regarding a case usually going to the Solicitor General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose information to the Department of Justice for the purpose of litigating an action, seeking legal advice, or for research purposes. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or

settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Skeletal legal files and indexes to the narrative material or microfilm excluding the General Litigation Division's Actions on Decisions are stored on magnetic media. Actions on Decisions, Case Abstracts, Technical Advice and Advisory Memoranda are stored on microfilm. Input documents are on paper. The system to be developed during fiscal years 1983–1986 will also show access by interactive terminal.

RETRIEVABILITY:

Records are retrievable by legal jacket number and case issue. The system to be developed during fiscal years 1983–1986 will also allow retrieval by name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Passwords are required in the Counsel/Appeals Tracking System to access system information.

RETENTION AND DISPOSAL:

Magnetic media and microfilm will be periodically updated to reflect changes and maintained as long as needed. Input documents are retained for one year. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue NW, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files and Correspondence Control Files (Including inquiries about enforcement activities)—Treasury/IRS.

SYSTEM LOCATION:

National Office, National Computer Center, Data Center, Regional Offices, District Offices, and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence received. (2) Responses to correspondence. (3) Associated records. This system may include tax return information and investigation records as necessary to process correspondence received. Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication. This notice is not intended to apply to correspondence or correspondence controls covered by other published notices of systems of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and as necessary to report apparent violations of law to appropriate law enforcement agencies. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and/or such automated or electronic record-keeping equipment as may be locally available.

RETRIEVABILITY:

Controlled items are generally retrievable by name; some items are not retrievable, depending upon the controls established locally. No centralized index exists.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the correspondence file, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioners, Regional Commissioners, District Directors, and Service Center Directors of Internal Revenue.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Correspondence received. This system of records may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS—Appendix A

Inquiries under Treasury/IRS systems should be addressed to the office whose records are to be searched. The titles and addresses of the Systems Managers are as follows:

National Office Internal Revenue Service

Assistant to the Commissioner (Equal Opportunity)
Assistant to the Commissioner (Public Affairs)
Assistant Commissioner (Collection)
Assistant Commissioner (Computer Services)
Assistant Commissioner (Employee Plans and Exempt Organizations)
Assistant Commissioner (Inspection)
Assistant Commissioner (Planning Finance and Research)
Assistant Commissioner (Human Resources)
Assistant Commissioner (Support and Services)
Assistant Commissioner (Returns and Information Processing)
Associate Chief Counsel (Technical)
Director, Disclosure and Security Division Chief Counsel
Director, Appeals Division
The address for all of the above Systems Managers is as follows:
1111 Constitution Avenue, NW., Washington, D.C. 20224
Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225

Regional Office Internal Revenue Service

Central Region

Regional Commissioner, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
Regional Inspector, Internal Revenue Service, 550 Main Street, Room 8508, Cincinnati, Ohio 45202.
District Director, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
District Director, Internal Revenue Service, 1240 East 9th Street, Cleveland, Ohio 44199.
District Director, Internal Revenue Service, Rm. 2483, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226.
District Director, Internal Revenue Service, Federal Office Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204.
District Director, Internal Revenue Service, U.S. Post Office Building, 601 West Broadway, Louisville, Kentucky 40202.
District Director, Internal Revenue Service, 425 Juliana Street, Parkersburg, West Virginia 26101.
Director, Internal Revenue Service Center, Central Region, 201 W. Second St., Covington, Kentucky 41019.

Mid-Atlantic Region

Regional Commissioner, Internal Revenue Service, Room 500, 2 Penn Center Plaza, Philadelphia, Pennsylvania 19102.
Regional Inspector, Internal Revenue Service, Room 42284, W. J. Green Federal Bldg., 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Director, Internal Revenue Service, Federal Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.
District Director, Internal Revenue Service, 1501–970 Broad Street, Newark, New Jersey 07101.
District Director, Internal Revenue Service, 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Director, Internal Revenue Service, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
District Director, Internal Revenue Service, 400 North 8th Street, Richmond, Virginia 23240.
District Director, Internal Revenue Service, 844 King Street, Wilmington, Delaware 19801.
District Director, Internal Revenue Service Center, Mid-Atlantic Region, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155.

Midwest Region

Regional Commissioner, Internal Revenue Service, One North Wacker Drive, Chicago, Illinois 60606.
Regional Inspector, Internal Revenue Service, Rm. 1646, 35 East Wacker Drive, Chicago, Illinois 60601.
District Director, Internal Revenue Service, 115 Fourth Avenue, S.E., Aberdeen, South Dakota 57401.
District Director, Internal Revenue Service, 230 South Dearborn Street, Chicago, Illinois 60604.
District Director, Internal Revenue Service, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
District Director, Internal Revenue Service, Federal Building and Post Office, 653 Second Avenue, North, Fargo, North Dakota 58102.
District Director, Internal Revenue Service, Federal Building and Court House, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.
District Director, Internal Revenue Service, Federal Office Building, 106 South 15th Street, Omaha, Nebraska 68102.
District Director, Internal Revenue Service, U.S. Court and Custom House, 1114 Market Street, St. Louis, Missouri 63101.
District Director, Internal Revenue Service, Federal Building and Court House, 316 North Robert Street, St. Paul, Minnesota 55101.
District Director, Internal Revenue Service, 320 West Washington St., Springfield, Illinois 62704.
Director, Internal Revenue Service, Midwest Region, 2306 East Bannister Road, Kansas City, Missouri 64170.

North-Atlantic Region

Regional Commissioner, Internal Revenue Service, 90 Church Street, New York, New York 10007.
Regional Inspector, Internal Revenue Service, 26 Federal Plaza (14th Floor), New York, New York 10007.
District Director, Internal Revenue Service, 68 Sewell Street, Augusta, Maine 04330.
District Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
District Director, Internal Revenue Service, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.
District Director, Internal Revenue Service, 120 Church Street Station, New York, New York 10007.
District Director, Internal Revenue Service, 35 Tillary Street, Brooklyn, New York 11201.
District Director, Internal Revenue Service, 111 W. Huron Street, Buffalo, New York 14202.
District Director, Internal Revenue Service, 11 Elmwood Avenue, Burlington, Vermont 05401.
District Director, Internal Revenue Service, 135 Main Street, Hartford, Connecticut 06103.
District Director, Internal Revenue Service, Federal Building, 80 Daniels Street, Portsmouth, New Hampshire 03801.
District Director, Internal Revenue Service, 380 Westminster Mall, Providence, Rhode Island 02903.
Director, Internal Revenue Service Center, North-Atlantic Region, 310 Lowell Street, Andover, Massachusetts 01812.
Director, Internal Revenue Service Center, North-Atlantic Region, 1040 Waverly Avenue, Holtsville, New York 11799.

Southeast Region

Regional Commissioner, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30043.
Regional Inspector, Internal Revenue Service, 4th Floor, 221 Courtland Street, N.E., Atlanta, Georgia 30370.
District Director, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30043.
District Director, Internal Revenue Service, 500 22nd Street, Rm. 300, Birmingham, Alabama 35233.
District Director, Internal Revenue Service, 1835 Assembly Street, Columbia, South Carolina 29201.

District Director, Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27401.
District Director, Internal Revenue Service, 100 W. Capital Street, Jackson, Mississippi 39269.
District Director, Internal Revenue Service, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
District Director, Internal Revenue Service, 801 Broadway, Nashville, Tennessee 37202.
Director, Internal Revenue Center, Southeast Region, 4800 Buford Highway, Chamblee, Georgia 30341.
Director, Internal Revenue Service Center, Southeast Region, 3131 Democrat Road, Memphis, Tennessee 37501.

Southwest Region

Regional Commissioner, Internal Revenue Service, 7839 Churchill Way, LB-70, Dallas, Texas 75251.
Regional Inspector, Internal Revenue Service, 7839 Churchill Way, LB-81, Dallas, Texas 75251.
District Director, Internal Revenue Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87101.
District Director, Internal Revenue Service, 300 E. 8th Street, Austin, Texas 78701.
District Director, Internal Revenue Service, 3223 Briar Park, Houston, Texas 77042.
District Director, Internal Revenue Service, 308 W. 21st Street, Cheyenne, Wyoming 82001.
District Director, Internal Revenue Service, 1100 Commerce Street, Dallas, Texas 75242.
District Director, Internal Revenue Service, 610 Arapahoe Street, Denver, Colorado 80265.
District Director, Internal Revenue Service, 700 W. Capitol, Little Rock, Arkansas 72201.
District Director, Internal Revenue Service, 500 Camp Street, New Orleans, Louisiana 70130.
District Director, Internal Revenue Service, 200 N.W. 4th Street, Oklahoma City, Oklahoma 73102.
District Director, Internal Revenue Service, 412 S. Main Street, Wichita, Kansas 67202.
Director, Internal Revenue Service Center, Southwest Region, 3651 S. Interregional Highway, Austin, Texas 78740.

Western Region

Regional Commissioner, Internal Revenue Service, 525 Market Street, San Francisco, California 94105.
Regional Inspector, Internal Revenue Service, 160 Pine Street, Suite 500, San Francisco, California 94111.
District Director, Internal Revenue Service, 310 K Street, Anchorage, Alaska 99501.
District Director, Internal Revenue Service, 550 West Fort Street, Box 041, Boise, Idaho 83724.
District Director, Internal Revenue Service, Federal Building, 316 North Park, Helena, Montana 59601.
District Director, Internal Revenue Service, P.J.K.K. Federal Bldg., 300 Ala Moana, Honolulu, Hawaii 96850.
District Director, Internal Revenue Service, 2400 Avila Road, Laguna Niguel, CA 92677.
District Director, Internal Revenue Service, 300 N. Los Angeles Street, Los Angeles, CA 90012.
District Director, Internal Revenue Service, 2120 N. Central Avenue, Phoenix, Arizona 85004.
District Director, Internal Revenue Service, 1220 S.W. 3rd Ave., Portland, Oregon 97204.
District Director, Internal Revenue Service, 300 Booth Street, Reno, Nevada 89509.
District Director, Internal Revenue Service, 2345 Fair Oaks Blvd., Sacramento, CA 95825.
District Director, Internal Revenue Service, 465 S. 4th East, Salt Lake City, Utah 84111.
District Director, Internal Revenue Service, 450 Golden Gate Avenue, San Francisco, CA 94102.
District Director, Internal Revenue Service, One North First Street, San Jose, CA 95113.
District Director, Internal Revenue Service, 915 S. Second Street, Seattle, Washington, 98174.
Director, Internal Revenue Service Center, Western Region, 1160 W. 1200 South Street, Ogden, Utah 84201.
Director, Internal Revenue Service Center, Western Region, 5045 East Butler Avenue, Fresno, CA 93888.

Addresses of Chief Counsel, Regional Counsel, District Counsel, and Regional Director of Appeals Offices

National Office

Operations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Criminal Tax Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
General Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Interpretative Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Tax Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation), (Technical), and (General), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

Regional Counsel Offices

North-Atlantic Region

Regional Counsel Office
Regional Counsel's Office, IRS, North-Atlantic Region, 26 Federal Plaza, 12th Floor, New York, New York 10007.

District Counsel Offices

District Counsel's Office, IRS, 26 Federal Plaza, 12th Floor, New York, New York 10278.
District Counsel's Office, IRS, Manhattan Office, Leo W. O'Brien Federal Building, Clinton Avenue and N. Pearl Streets, Albany, New York 12207.
District Counsel's Office, IRS, 100 Summer Street, Room 1728, Boston, Massachusetts 02110.
District Counsel's Office, IRS, Brooklyn Office, 1000 Uniondale Avenue at Hempstead Turnpike, Uniondale, New York 11553.
District Counsel's Office, IRS, 304 U.S. Court House, Niagara Square, Buffalo, New York 14202.
District Counsel's Office, IRS, 35 High Street, Room 259, Hartford, Connecticut 06103.
Regional Director of Appeals, 90 Church St. N.Y., N.Y. 10007.

Mid-Atlantic Region:

Regional Counsel Office
Regional Counsel Office, IRS, Mid-Atlantic Region, 841 Chestnut Street, Room 360 Philadelphia, Pennsylvania 19107.

District Counsel Offices

District Counsel's Office, IRS, Room 10424, 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Counsel's Office, IRS, Room 4100, 101 W. Lombard Street, Baltimore, Maryland 21201.
District Counsel's Office, IRS, 970 Broad St., Room 904, Newark, New Jersey 07101.
District Counsel's Office, IRS, Foreign Operations, Room 600, 1325 K Street, NW., Washington, D.C. 20225.
District Counsel's Office, IRS, 726 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
District Counsel's Office, IRS, P.O. Box 10065, Richmond, Virginia 23240.
District Counsel's Office, IRS, Universal Building, North, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.
Regional Director of Appeals, Room 360, 841 Chestnut St, Philadelphia, PA 19107.

Southeast Region:

Regional Counsel Office
Regional Counsel's Office, IRS, Southeast Region, P.O. Box 1974, Atlanta, Georgia 30370.

District Counsel Offices

District Counsel's Offices, IRS, P.O. 901, Atlanta, Georgia 30370.
District Counsel's Office, IRS, Room 340, 500 22nd Street, South, Birmingham, Alabama 35203.
District Counsel's Office, IRS, P.O. Box 21002, Greensboro, North Carolina 27420.
District Counsel's Office, IRS, Box 35027, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
District Counsel's Office, IRS, Room 1502, Federal Office Building, 51 SW First Avenue, Miami, Florida 33130.
District Counsel's Office, IRS, P.O. Box 23264, Nashville, Tennessee 37202.

Regional Director of Appeals, 625 Federal Office Building, 275 Peachtree St., N.E., Atlanta, GA 30043.

Central Region:

Regional Counsel Office

Regional Counsel's Office, IRS, 7570 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45201.

District Counsel Offices

District Counsel's Office, IRS, 7525 Federal Office Bldg., 550 Main Street, Cincinnati, Ohio 45201.
District Counsel's Office, IRS, 605 Bancohio Building, 1404 E. Ninth St., Cleveland, Ohio 44114.
District Counsel's Office, IRS, P.O. Box 32516, Detroit, Michigan 48232.
District Counsel's Office, IRS, P.O. Box 44010, Indianapolis, Indiana 46244.
District Counsel's Office, IRS, P.O. Box 898, Louisville, Kentucky 40201.
Regional Director of Appeals, 7514 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.

Midwest Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Suite 3410, 230 South Dearborn Street, Chicago, Illinois 60604.

District Counsel Offices

District Counsel's Office, IRS, 1342 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604.
District Counsel's Office, IRS, Room 441, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
District Counsel's Office, IRS, 2700 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
District Counsel's Office, IRS, Suite 760, 310 W. Wisconsin Avenue, Milwaukee, Wisconsin 53233.
District Counsel's Office, IRS, P.O. Box 1500, Downtown Station, Omaha, Nebraska 68101.
District Counsel's Office, IRS, Room 720, 320 West Washington Street, Springfield, Illinois 62701.
District Counsel's Office, IRS, P.O. Box 1146, H. W. Wheeler Station, St. Louis, Missouri 63101.
District Counsel's Office, IRS, Room 572, Federal Building and U.S. Court House, 316 N. Robert Street, St. Paul, Minnesota 55101.
Regional Director of Appeals, 10th Floor, One N. Wacker Drive, Chicago, Illinois 60606.

Southwest Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Southwest Region, 7839 Churchill Way, LB-81, Dallas, Texas 75251.

District Counsel Offices

District Counsel's Office, IRS, Room 12A24, Earle Cabell Federal Building, 1100 Commerce St., Dallas, TX 75242.
District Counsel's Office, IRS, 20th Floor, 1050-17th Street, Denver, Colorado 80265.
District Counsel's Office, IRS, Room 8102, Federal Building, 515 Rusk Avenue, Houston, Texas 77002.
District Counsel's Office, IRS, P.O. Box 30509, New Orleans, Louisiana 70190.
District Counsel's Office, IRS, P.O. Box 1903, Oklahoma City, Oklahoma 73101.
Regional Director of Appeals, LB-70, 7839 Churchill Way, Dallas, TX 75251.

Western Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Western Region, Room 2470, 525 Market Street, San Francisco, CA 94105.

District Counsel Offices

District Counsel's Office, IRS, 84 W. Santa Clara Street, Room 300, San Jose, CA 95113.
District Counsel's Office, IRS, 801 I Street, Room 204, Sacramento, CA 95814.
District Counsel's Office IRS, P.O. Box 2031, Main Post Office, Los Angeles, CA 90053.
District Counsel's Office, IRS, 101 N. First Avenue, Suite 1474, Phoenix, AZ 85003.
District Counsel's Office, IRS, 810 Crown Plaza, 1500 S.W. First Avenue, Portland, Oregon 97201.
District Counsel's Office, IRS, P.O. Box 891, Reno, Nevada 89504.
District Counsel's Office, IRS, 940 Front Street, Room 5S18, San Diego, California 92189.
District Counsel's Office, IRS, Room 2710, Federal Building, 915 Second Ave., Seattle, Washington 98174.
District Counsel's Office, IRS, P.O. Box 2520, Salt Lake City, Utah 84110.
District Counsel's Office, IRS, P.O. Box 891, Reno, Nevada 89504.
District Counsel's Office, IRS, P.O. Box 2520, Salt Lake City, Utah 84110.
District Counsel's Office, IRS, 2N16 U.S. Courthouse, 940 Front Street, San Diego, CA 92189.
District Counsel's Office, IRS, Suite 900, Two Embarcadero Center, San Francisco, CA 94111.
District Counsel's Office, IRS, 2710 Federal Building, 915 Second Avenue, Seattle, Washington 98174
District Counsel's Office, IRS, P.O. Box 50089, Honolulu, HI 96850
Regional Director of Appeals, 525 Market Street, San Francisco, CA 94105.

[FR Doc. 85-17128 Filed 7-19-85; 8:45 am]

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federal register

Monday
July 22, 1985

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notices of Completion of Review for 1978 and of Five-Year Review for Species Listed Before 1976 and in 1979 and 1980

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review Completed for Species Classified as Endangered or Threatened in 1978

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 5-year review completion.

SUMMARY: The Service reports the completion of its review of species listed as endangered or threatened in 1978. No proposed change in the status of these species is contemplated in the near future.

DATES: The Service will continue to accept data on any listed species at any time.

ADDRESSES: Comments or data may be submitted to the Director (OES–500 Broyhill), U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, 500 Broyhill, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771 or FTS 235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (16 U.S.C. 1531, *et seq.*), as amended, requires the Service to conduct a review of all listed species at least once every 5 years. The purpose of this action is to ensure that the listing accurately reflects the most current status of the listed species. In order to aid in discharging this responsibility, the Service requested in the **Federal Register** of December 8, 1983 (48 FR 55102), comments and appropriate data that might document the need to delist or reclassify any of the species of endangered or threatened wildlife and plants listed in 1978. The Service requested all comments be submitted by April 6, 1984, in order to be considered in this review. The Service actively sought comments from recovery teams, applicable State conservation agencies, individuals known to be concerned with particular species, and other groups and individuals who might shed light on the current status of those species in this review. In addition, the Service searched its own files and requested data from Service biologists that might also help in this review.

The Service has reviewed all the pertinent material available on each species and finds that there are no substantial data to suggest a change in status for any of the 39 species. All such data support the present status for those species. However, it is possible that at some point before the next 5-year review for these species that data may become available that would suggest the Service propose the reclassification or even delisting of one or more species.

The Service has conducted four previous 5-year reviews (e.g., review of species listed in 1976, 1977, etc.). A few species have either been delisted or reclassified as a result, at least in part, of these 5-year reviews. This is the first summary of the results of any 5-year review to be published; summaries will be published of future 5-year reviews in order to better inform the public of the outcome of the reviews.

Author

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; 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).

List of Subjects in 50 CFR Part 17

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

List of Wildlife Reviewed in 50 CFR 17.11

Mammals:

Elephant, African (*Loxodonta africana*)
Wolf, gray (*Canis lupus*)

Birds:

Eagle, bald (*Haliaeetus leucocephalus*)

Reptiles:

Boa, Mona (*Epicrates monensis monensis*)
Iguana, Mona ground (*Cyclura stejnegeri*)
Rattlesnake, New Mexican (*Crotalus willardi obscurus*)
Snake, eastern indigo (*Drymarchon corais couperi*)
Turtle, green sea (*Chelonia mydas*)
Turtle, loggerhead sea (*Caretta caretta*)
Turtle, Olive (Pacific) Ridley sea (*Lepidochelys olivacea*)

Fishes:

Darter, leopard (*Percina pantherina*)
Trout, greenback cutthroat (*Salmo clarki stomias*)
Trout, little kern golden (*Salmo aquabonita whitei*)

Snails:

Snail, Chittenango ovate amber (*Succinea chittenangoensis*)
Snail, flat-spired three-toothed (*Triodopsis platysayoides*)
Snail, Iowa Pleistocene (*Discus macclintocki*)
Snail, noonday (*Mesodon clarki nantahala*)
Snail, painted snake coiled forest (*Anguispira picta*)
Snail, Stock Island (*Orthalicus reses*)
Snail, Virginia fringed mountain (*Polygyriscus virginianus*)

Crustaceans:

Isopod, Socorro (*Thermosphaeroma* [=*Exosphaeroma*] *thermophilus*)

List of Plants Reviewed in 50 CFR 17.12

Betulaceae—Birch family:

Betula uber (Virginia round-leaf birch)

Brassicaceae—Mustard family:

Arabis mcdonaldiana (McDonald's rock-cress)
Erysimum capitatum var. *angustatum* (Contra Costa wallflower)

Crassulaceae—Stonecrop family:

Dudleya traskiae (Santa Barbara Island liveforever)

Fabaceae—Pea family:

Astragalus perianus (Rydberg milk-vetch)
Baptisia arachnifera (Hairy rattleweed)
Vicia menziesii (Hawaiian vetch)

Hydrophyllaceae—Waterleaf family:

Phacelia argillacea (Clay-loving phacelia)

Lamiaceae—Mint family:

Pogogyne abramsii (San Diego mesa mint)

Liliaceae—Lily family:

Trillium persistens (Persistent trillium)

Onagraceae—Evening-primrose family:

Oenothera avita ssp. *eurekensis* (Eureka Valley evening-primrose)
Oenothera deltoides ssp. *howellii* (Antioch Dunes evening-primrose)

Poaceae—Grass family:

Tuctoria mucronata (=*Orcuttia m.*) (Solano grass)
Swallenia alexandrae (Eureka Dune grass)
Zizania texana (Texas wild-rice)

Ranunculaceae—Buttercup family:

Aconitum noveborancense (Northern wild monkshood)

Scrophulariaceae—Snapdragon family:

Cordylanthus maritimus spp. *maritimus* (Salt marsh bird's beak)
Pedicularis furbishiae (Furbish lousewort)

Dated: June 28, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-17235 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 5-Year Review for Species Listed Before 1976 and in 1979 and 1980

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of all species listed as endangered or threatened at least once every 5 years. The purpose of this action is to ensure that the list accurately reflects the most current status of the species. The Service requests comments and appropriate data that might document the need to delist or reclassify any of the species of wildlife and plants in the table below. If, as a result of this review, the present classification of these species as endangered or threatened is not consistent with the current evidence, the Service may propose changes accordingly.

DATES: In order to be considered in this review, comments must be received no later than November 19, 1985.

ADDRESSES: Each species in the table below has a U.S. Fish and Wildlife Service office (USFWS) identified for receipt of comments:

1. Regional Director, Region 1 (ARD/FA), USFWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

2. Regional Director, Region 2 (ARD/AFF), USFWS, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, New Mexico 87103.

3. Regional Director, Region 3 (ARD/AFF), USFWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

4. Regional Director, Region 4 (ARD/FA), USFWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303.

5. Regional Director, Region 5 (ARD/FA), USFWS, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

6. Regional Director, Region 6 (ARD/FA), USFWS, 134 Union Boulevard, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

7. Regional Director, Region 7 (ARD/FA), USFWS, 1101 E. Tudor Road, Anchorage, Alaska 99503.

8. Associate Director—Federal Assistance, Room 3024, USFWS, Department of the Interior, Washington, D.C. 20240.

Comments and materials sent in response to this notice of review will be available for public inspection at the appropriate office (see addresses above and the table of species below) by appointment during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, 5th Floor Broyhill, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent publication of such lists was in the Code of Federal Regulations of October 1, 1984. The procedural rules for listing, reclassifying, or removing species from the lists are codified at 50 CFR Part 424. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.21 require the Service to conduct a review of each listed species at least once every 5 years. Species that are to be considered under the present review are species listed during 1979 or 1980 or before 1976 and are listed in the table below. Species subsequently affected by rules reclassifying all or significant parts of their populations are not included in this notice.

Definitions

The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species given in the table below:

1. "Critical Habitat" means (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with 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 geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

2. "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.

3. "Species" includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate, which is capable of interbreeding when mature.

4. "Threatened" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

A species is determined to be endangered or threatened because of any of the following factors (§ 424.11(c)):

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

The factors considered when removing a species from the lists are also those in the paragraph above. The data to support such removal must be the best scientific and commercial data available to the Service to substantiate that the species is neither endangered nor threatened for one or more of the following reasons:

1. *Extinction.* Unless all individuals of the listed species had been previously identified and located and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to clearly ensure that the species is in fact extinct.

2. *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.

3. *Original data for classification in error.* Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

Effects of the Review

If substantial evidence is available to the Service or is presented by any party

for one or more species in the table below, the Service may propose new rules that could do any of the following: (a) Reclassify a species from endangered to threatened, (b) reclassify a species from threatened to endangered, or (c) remove a species from the Lists of Endangered and Threatened Wildlife and Plants. Distinct geographic populations of vertebrate species as well as subspecies of all species may be proposed for either separate reclassification or for removal from the lists. If no substantial data are available or presented to suggest a status change for a particular species, then the next formal status review for that species will be announced no later than 5 years hence. However, the Service continuously reviews the status of listed species, and reclassifications and delistings are initiated whenever data shows they are appropriate.

Public Comments Solicited

The Service requests comments concerning the status of any of the species in the table below. Comments from the public, other governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. The original proposed and final rules (see "When Listed" citation in table below) for each species may be used to determine what data formed the basis for the original classification. The Service primarily seeks any new or additional information that reflects the necessity of a change in status. If significant data are available warranting a change in a species' classification under the Act, the Service may propose a rule to modify the present status of the species. Comments and data are requested regarding past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any critical habitat. This information should preferably be supported by documentation, such as maps, a list of bibliographic references, reprints or pertinent publications, or copies of written reports or letters from authorities.

Author

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–1975).

Authority

The authority for this action is the Endangered Species Act [16 U.S.C. 1531 *et seq.*; 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. 1255; Pub. L. 97–304, 96 Stat. 1411].

List of Subjects in 50 CFR Part 17

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

Dated: June 28, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

LIST OF SPECIES UNDER REVIEW

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Common name	Scientific name					
MAMMALS						
Anoa, lowland	*Bubalus depressicornis* (=*B. anoa depressicornis*).	Indonesia	Entire	E	3	8
Armadillo, pink fairy	*Chlamyphorus truncatus*	Argentina	do	E	3	8
Ass, African wild	*Equus asinus* (=*africanus*)	Somalia, Sudan, Ethiopia	do	E	3	8
Ass, Asian wild (=kulan, onager)	*Equus hemionus*	Southwestern and central Asia	do	E	3	8
Avahi	*Avahi* (=*Lichanotus*) *laniger* (=entire genus).	Malagasy Republic (=Madagascar)	do	E	3	8
Aye-Aye	*Daubentonia madagascariensis*	Malagasy Republic (=Madagascar)	do	E	3	8
Bandicoot, barred	*Parameles bougainville*	Australia	do	E	4	8
Bandicoot, desert	*Perameles eremiana*	do	do	E	6	8
Bandicoot, lesser rabbit	*Macrotis leucura*	do	do	E	4	8
Bandicoot, pig-footed	*Chaeropus ecaudatus*	do	do	E	4	8
Bandicoot, rabbit	*Macrotis lagotis*	do	do	E	4	8
Banteng	*Bos javanicus* (=*banteng*)	Southeast Asia	do	E	3	8
Bat, Hawaiian hoary	*Lasiurus cinereus semotus*	U.S.A. (Hawaii)	do	E	2	1
Bat, Indiana	*Myotis sodalis*	Eastern and midwestern U.S.A.	do	E	1	3
Bat, Ozark big-eared	*Plecotus townsendii ingens*	U.S.A. (MO, OK, AR)	do	E	85	4
Bat, Virginia big-eared	*Plecotus townsendii virginianus*	U.S.A. (KY, WV, VA)	do	E	85	5
Bear, brown or grizzly	*Ursus arctos horribilis*	Canada, western U.S.A.	U.S.A.—48 conterminous States.	T	1, 2, 9	6
Bear, Mexican grizzly	*Ursus arctos nelsoni*	Mexico	Entire	E	3	2
Bison, wood	*Bison bison athabascae*	Canada, northwestern U.S.A.	Canada	E	3	8
Cat, Iriomote	*Felis* (*Mayailurus*) *iriomotensis*	Japan (Iriomote Island, Ryukyu Islands)	Entire	E	50	8
Cat, tiger	*Felis tigrinus*	Costa Rica to northern Argentina	do	E	5	8
Cheetah	*Acinonyx jubatus*	Africa to India	do	E	3, 5	8
Civet, Malabar large-spotted	*Viverra megaspila civettina*	India	do	E	50	8
Cougar, eastern	*Felis concolor couguar*	Eastern North America	do	E	6	5
Deer, Bactrian	*Cervus elaphus bactrianus*	U.S.S.R., Afghanistan	do	E	50	8
Deer, Barbary	*Cervus elaphus barbarus*	Morocco, Tunisia, Algeria	do	E	50	8
Deer, Bawean	*Axis* (=*Cervus*) *porcinus kuhli*	Indonesia	do	E	3	8
Deer, Cedros Island mule	*Odocoileus hemionus cedrosensis*	Mexico (Cedros Island)	do	E	10	8
Deer, Columbian white-tailed	*Odocoileus virginianus leucurus*	U.S.A. (WA, OR)	do	E	1	1
Deer, Corsican red	*Cervus elaphus corsicanus*	Corsica, Sardinia	do	E	50	8
Deer, Eld's brow-antlered	*Cervus eldi*	India to Southeast Asia	do	E	3	8
Deer, Formosan sika	*Cervus nippon taiouanus*	Taiwan	do	E	50	8
Deer, key	*Odocoileus virginianus clavium*	U.S.A. (southern Florida)	do	E	1	4
Deer, marsh	*Blastocerus dichotomus*	Argentina, Uruguay, Paraguay, Bolivia, Brazil.	do	E	3	8
Deer, McNeill's	*Cervus elaphus macneilli*	China (Sinkiang, Tibet)	do	E	3	8
Deer, North China sika	*Cervus nippon mandarinus*	China (Shantung and Chihli Provinces)	do	E	50	8
Deer, Persian fallow	*Dama dama mesopotamica*	Iraq, Iran	do	E	3	8
Deer, Ryukyu sika	*Cervus nippon keramae*	Japan (Ryukyu Islands)	do	E	50	8
Deer, Shansi sika	*Cervus nippon grassianus*	China (Shansi Province)	do	E	50	8
Deer, South China sika	*Cervus nippon kopschi*	Southern China	do	E	50	8
Deer, swamp (=barasingha)	*Cervus duvaucelli*	India, Nepal	do	E	3	8
Deer, Yarkand	*Cervus elaphus yarkandensis*	China (Sinkiang)	do	E	50	8

LIST OF SPECIES UNDER REVIEW—Continued

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Common name	Scientific name					
Dhole (=Asiatic wild dog)	*Cuon alpinus*	U.S.S.R., Korea, China, India, Southeast Asia.	do	E	3	6
Dibbler	*Antechinus apicalis*	Australia	do	E	4	8
Dugong	*Dugong dugon*	East Africa to southern Japan, including U.S.A. (Trust Territories).	do	E	4	8
Duiker, Jentink's	*Cephalophus jentinki*	Sierra Leone, Liberia, Ivory Coast	do	E	50	6
Eland, Western giant	*Taurotragus derbianus derbianus*	Senegal to Ivory Coast	do	E	50	6
Ferret, black-footed	*Mustela nigripes*	Western U.S.A., western Canada	do	E	1, 3	6
Fox, Northern swift	*Vulpes velox hebes*	U.S.A. (northern plains), Canada	Canada	E	3	6
Fox, San Joaquin kit	*Vulpes macrotis mutica*	U.S.A. (California)	Entire	E	1	1
Fox, Simien	*Canis (Simenia) simensis*	Ethiopia	do	E	50	6
Gazelle, Arabian	*Gazella gazella*	Arabian Peninsula, Palestine, Sinai	do	E	50	6
Gazelle, Clark's (=Dibstag)	*Ammodorcas clarkei*	Somalia, Ethiopia	do	E	3	6
Gazelle, Cuvier's	*Gazella cuvieri*	Morocco, Algeria, Tunisia	do	E	3	6
Gazelle, Mhorr	*Gazella dama mhorr*	Morocco	do	E	3	6
Gazelle, Moroccan (=Dorcas)	*Gazella dorcas massaesyla*	Morocco, Algeria, Tunisia	do	E	3	6
Gazelle, Pelzeln's	*Gazella dorcas pelzelni*	Somalia	do	E	50	6
Gazelle, Rio de Oro Dama	*Gazella dama lozanoi*	Western Sahara	do	E	3	6
Gazelle, sand	*Gazella subgutturosa marica*	Jordan, Arabian Peninsula	do	E	50	6
Gazelle, Saudi Arabian	*Gazella dorcas saudiya*	Israel, Iraq, Jordan, Syria, Arabian Peninsula.	do	E	50	6
Gazelle, slender-horned (=Rhim)	*Gazella leptoceros*	Sudan, Egypt, Algeria, Libya	do	E	3	6
Gorilla	*Gorilla gorilla*	Central and western Africa	do	E	3	6
Hartebeest, Swayne's	*Alcelaphus buselaphus swaynei*	Ethiopia, Somalia	do	E	3, 50	6
Hartebeest, Tora	*Alcelaphus buselaphus tora*	Ethiopia, Sudan, Egypt	do	E	50	6
Hog, pygmy	*Sus salvanius*	India, Nepal, Bhutan, Sikkim	do	E	3	6
Hyena, Barbary	*Hyaena hyaena barbara*	Morocco, Algeria, Tunisia	do	E	3	6
Hyena, brown	*Hyaena brunnea*	Southern Africa	do	E	3	6
Ibex, Pyrenean	*Capra pyrenaica pyrenaica*	Spain	do	E	3	6
Ibex, Walia	*Capra walie*	Ethiopia	do	E	3	6
Impala, black-faced	*Aepyceros melampus petersi*	Namibia, Angola	do	E	3	6
Indri	*Indri indri* (=entire genus)	Malagasy Republic (=Madagascar)	do	E	3	6
Jaguar	*Panthera onca*	U.S.A. (TX, NM, AZ), C. and S. America	Mexico southward	E	5	2
Kangaroo, Tasmanian forester	*Macropus giganteus tasmaniensis*	Australia (Tasmania)	Entire	E	6	6
Kouprey	*Bos sauveli*	Vietnam, Laos, Cambodia, Thailand	do	E	3	6
Langur, Douc	*Pygathrix nemaeus*	Cambodia, Laos, Vietnam	do	E	3	6
Langur, Pagi Island	*Nasalis (Simias) concolor*	Indonesia	do	E	3	6
Lechwe, red	*Kobus leche*	Southern Africa	do	T	3, 15, 106	6
Leopard, snow	*Panthera uncia*	Central Asia	do	E	5	6
Lion, Asiatic	*Panthera leo persica*	Turkey to India	do	E	3	6
Lynx, Spanish	*Felis (=Lynx) pardina*	Spain, Portugal	do	E	3	6
Macaque, lion-tailed	*Macaca silenus*	India	do	E	3	6
Manatee, Amazonian	*Trichechus inunguis*	South America (Amazon River Basin)	do	E	3	6
Manatee, West African	*Trichechus senegalensis*	West coast of Africa from Senegal River to Cuanza River.	do	T	52	6
Manatee, West Indian (Florida)	*Trichechus manatus*	U.S.A. (southeastern), Caribbean Sea, South America.	do	E	1; 3	4
Mangabey, Tana River	*Cercocebus galeritus*	Kenya	do	E	3	6
Margay	*Felis wiedii*	U.S.A. (Texas), C. and S. America	Mexico southward	E	5	6
Marmoset, Goeldi's	*Callimico goeldii*	Brazil, Colombia, Ecuador, Peru, Bolivia	Entire	E	3	6
Marsupial, eastern jerboa	*Antechinomys laniger*	Australia	do	E	4	8
Marsupial-mouse, large desert	*Sminthopsis psammophila*	do	do	E	4	8
Marsupial-mouse, long-tailed	*Sminthopsis longicaudata*	do	do	E	4	8
Marten, Formosan yellow-throated	*Martes flavigula chrysospila*	Taiwan	do	E	3	8
Monkey, red-backed squirrel	*Saimiri oerstedii*	Costa Rica, Panama	do	E	3	8
Monkey, spider	*Ateles geoffroyi panamensis*	do	do	E	3	6
Monkey, spider	*Ateles geoffroyi frontatus*	Costa Rica, Nicaragua	do	E	3	6
Monkey, woolly spider	*Brachyteles arachnoides*	Brazil	do	E	3	6
Monkey, Zanzibar red colobus	*Colobus kirki*	Tanzania	do	E	3	6
Mouse, Field's	*Pseudomys fieldi*	Australia	do	E	4	6
Mouse, Gould's	*Pseudomys gouldii*	do	do	E	6	6
Mouse, New Holland	*Pseudomys novaehollandiae*	do	do	E	4	6
Mouse, salt marsh harvest	*Reithrodontomys raviventris*	U.S.A. (California)	do	E	2	1
Mouse, Shark Bay	*Pseudomys praeconis*	Australia	do	E	4	6
Mouse, Shortridge's	*Pseudomys shortridgei*	do	do	E	4	6
Mouse, Smoky	*Pseudomys fumeus*	do	do	E	4	6
Mouse, western	*Pseudomys occidentalis*	do	do	E	4	6
Muntjac, Fea's	*Muntiacus feae*	Northern Thailand, Burma	do	E	50	6
Native-cat, eastern	*Dasyurus viverrinus*	Australia	do	E	6	6
Numbat	*Myrmecobius fasciatus*	do	do	E	4, 6	6
Orangutan	*Pongo pygmaeus*	Borneo, Sumatra	do	E	3	6
Oryx, Arabian	*Oryx leucoryx*	Arabian Peninsula	do	E	3	6
Otter, Cameroon clawless	*Aonyx (Paraonyx) congica microdon*	Cameroon, Nigeria	do	E	3	6
Otter, giant	*Pteronura brasiliensis*	South America	do	E	3	6
Panther, Florida	*Felis concolor coryi*	U.S.A. (LA and AR east to SC and FL)	do	E	1	4
Planigale, little	*Planigale ingrami subtilissima* (formerly *P. subtilissima*).	Australia	do	E	4	6
Planigale, southern	*Planigale tenuirostris*	do	do	E	4	6
Porcupine, thin-spined	*Chaetomys subspinosus*	Brazil	do	E	3	6
Possum, mountain pygmy	*Burramys parvus*	Australia	do	E	4	6
Possum, scaly-tailed	*Wyulda squamicaudata*	do	do	E	4	6
Prairie dog, Mexican	*Cynomys mexicanus*	Mexico	do	E	3	6
Pronghorn, peninsular	*Antilocapra americana peninsularis*	Mexico (Baja California)	do	E	10	6
Pronghorn, Sonoran	*Antilocapra americana sonoriensis*	U.S.A. (AZ), Mexico	do	E	1, 3	2
Quokka	*Setonix brachyurus*	Australia	do	E	6	6
Rabbit, Ryukyu	*Pentalagus furnessi*	Japan (Ryukyu Islands)	do	E	50	6
Rabbit, volcano	*Romerolagus diazi*	Mexico	do	E	3	6
Rat, false water	*Xeromys myoides*	Australia	do	E	4	6
Rat, Morro Bay kangaroo	*Dipodomys heermanni morroensis*	U.S.A. (California)	do	E	2	1

LIST OF SPECIES UNDER REVIEW—Continued

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Common name	Scientific name					
Rat, stick-nest	*Leporillus conditor*	Australia	do	E	6	8
Rat-kangaroo, brush-tailed	*Bettongia penicillata*	do	do	E	4	8
Rat-kangaroo, Gaimard's	*Bettongia gaimardi*	do	do	E	6	8
Rat-kangaroo, Lesuer's	*Bettongia lesueur*	do	do	E	4	8
Rat-kangaroo, plain	*Caloprymnus campestris*	do	do	E	4	8
Rat-kangaroo, Queensland	*Bettongia tropica*	do	do	E	4	8
Rhinoceros, black	*Diceros bicornis*	Sub-Saharan Africa	do	E	97	8
Rhinoceros, great Indian	*Rhinoceros unicornis*	India, Nepal	do	E	4	8
Rhinoceros, Javan	*Rhinoceros sondaicus*	Indonesia, Indochina, Burma, Thailand, Sikkim, Bangladesh, Malaysia.	do	E	3	8
Rhinoceros, northern white	*Ceratotherium simum cottoni*	Zaire, Sudan, Uganda, Central African Republic.	do	E	3	8
Rhinoceros, Sumatran	*Dicerorhinus (=Didermoceros) sumatrensis.*	Bangladesh to Vietnam to Indonesia (Borneo).	do	E	3	8
Saki, white-nosed	*Chiropotes albinasus*	Brazil	do	E	3	8
Seledang (=Gaur)	*Bos gaurus*	Bangladesh, Southeast Asia, India	do	E	3	8
Serval, Barbary	*Felis serval constantina*	Algeria	do	E	3	8
Shou	*Cervus elaphus wallichi*	Tibet, Bhutan	do	E	3	8
Sifakas	*Propithecus*spp. (all species)	Malagasy Republic (=Madagascar)	do	E	4	8
Sloth, Brazilian three-toed	*Bradypus torquatus*	Brazil	do	E	3, 4	8
Solenodon, Cuban	*Solendon (Atopogale) cubanus*	Cuba	do	E	3	8
Solenodon, Haitian	*Solenodon paradoxus*	Dominican Republic, Haiti	do	E	3	8
Stag, Barbary	*Cervus elephus barbarus*	Tunisia, Algeria	do	E	3	8
Stag, Kashmir	*Cervus elephus hanglu*	Kashmir	do	E	3	8
Suni, Zanzibar	*Neotragus (Nesotragus) moschatus moschatus.*	Zanzibar (and nearby islands)	do	E	50	8
Tahr, Arabian	*Hemitragus jayakari*	Oman	do	E	50	8
Tamaraw	*Bubalus mindorensis*	Philippines	do	E	4	8
Tamarin, golden-rumped (=golden-headed tamarin; =golden-lion marmoset).	*Leontopithecus (=Leontideus)* spp. (all species).	Brazil	do	E	3	8
Tapir, Brazilian	*Tapirus terrestris*	Colombia and Venezuela south to Paraguay and Argentina.	do	E	3	8
Tapir, Central American	*Tapirus bairdi*	Southern Mexico to Colombia and Ecuador	do	E	3	8
Tapir, mountain	*Tapirus pinchaque*	Colombia, Ecuador and possibly Peru and Venezuela.	do	E	3	8
Tiger, Tasmanian (=Thylacine)	*Thylacinus cynocephalus*	Australia	do	E	3	8
Tiger	*Panthera tigris*	Temperate and Tropical Asia	do	E	3, 5	8
Uakari (all species)	*Cacajao* spp. (all species)	Peru, Brazil, Ecuador, Colombia, Venezuela.	do	E	3	8
Vicuna	*Vicugna vicugna*	South America (Andes)	do	E	3	8
Wallaby, banded hare	*Lagostrophus fasciatus*	Australia	do	E	4	8
Wallaby, brindled nail-tailed	*Onychogalea fraenata*	do	do	E	4	8
Wallaby, crescent nail-tailed	*Onychogalea lunata*	do	do	E	4	8
Wallaby, Parma	*Macropus parma*	do	do	E	4	8
Wallaby, Western hare	*Lagorchiestes hirsutus*	do	do	E	4	8
Wallaby, yellow-footed rock	*Petrogale xanthopus*	do	do	E	6	8
Wolf, maned	*Chrysocyon brachyurus*	Argentina, Bolivia, Brazil, Paraguay, Uruguay.	do	E	4	8
Wolf, red	*Canis rufus*	U.S.A. (southeastern U.S.A. west to central TX).	do	E	1	2
Wombat, hairy-nosed (=Barnard's and Queensland hairy-nosed).	*Lasiorhinus krefftii* (formerly *L. barnardi* and *L. gillespiei*).	Australia	do	E	4, 6	8
Yak, wild	*Bos grunniens*	China (Tibet), India	do	E	3	8
Zebra, Grevy's	*Equus grevyi*	Kenya, Ethiopia, Somalia	do	T	54	8
BIRDS						
Akepa, Hawaii (honeycreeper)	*Loxops coccineus coccineus*	U.S.A. (Hawaii)	do	E	2	1
Akepa, Maui (honeycreeper)	*Loxops coccineus ochraceus*	do	do	E	2	1
Akialoa, Kauai (honeycreeper)	*Hemignathus procerus*	do	do	E	1	1
Akiapolaau (honeycreeper)	*Hemignathus munroi (=wilsoni)*	do	do	E	1	1
Albatross, short-tailed	*Diomedea albatrus*	North Pacific Ocean: Japan, U.S.S.R., U.S.A. (AK, CA, HI, OR, WA).	Entire, except U.S.A.	E	3	8
Bobwhite, masked (quail)	*Colinus virginianus ridgwayi*	U.S.A. (Arizona), Mexico (Sonora)	Entire	E	1, 3	2
Bristlebird, western	*Dasyornis brachypterus longirostris*	Australia	do	E	3	8
Bulbul, Mauritius olivaceous	*Hypsipetes borbonicus olivaceus*	Indian Ocean: Mauritius	do	E	3	8
Bullfinch, Sao Miguel (finch)	*Pyrrhula pyrrhula murina*	Eastern Atlantic Ocean: Azores	do	E	3	8
Bushwren, New Zealand	*Xenicus longipes*	New Zealand	do	E	3	8
Bustard, great Indian	*Choriotis nigriceps*	India, Pakistan	do	E	3	8
Cahow (=Bermuda Petrel)	*Pterodroma cahow*	North Atlantic Ocean: Bermuda	do	E	3	8
Condor, Andean	*Vultur gryphus*	Colombia to Chile and Argentina	do	E	4	8
Condor, California	*Gymnogyps californianus*	U.S.A. (OR, CA), Mexico (Baja California)	do	E	1	1
Coot, Hawaiian (=Alae keo keo)	*Fulica americana alai*	U.S.A. (Hawaii)	do	E	2	1
Crane, hooded	*Grus monacha*	Japan, U.S.S.R	do	E	4	8
Crane, Japanese	*Grus japonensis*	China, Japan, Korea, U.S.S.R	do	E	3	8
Crane, Mississippi sandhill	*Grus canadensis pulla*	U.S.A. (Mississippi)	do	E	6	4
Crane, Siberian white	*Grus leucogeranus*	U.S.S.R. (Siberia) to India, including Iran and China.	do	E	4	8
Crane, whooping	*Grus americana*	Canada, U.S.A. (Rocky Mountains east to Carolinas), Mexico.	do	E	1, 3	2
Creeper, Hawaii	*Oreomystis (=Loxops) mana*	U.S.A. (Hawaii)	do	E	10	1
Creeper, Molokai (=Kakawahie)	*Oreomystis (=Loxops) flammea*	do	do	E	2	1
Creeper, Oahu (=alauwahio)	*Oreomystis (=Loxops) maculata*	do	do	E	2	1
Crow, Hawaiian (='alala)	*Corvus hawaiiensis (=tropicus)*	do	do	E	1	1
Cuckoo-shrike, Mauritius	*Coquus (=Coracina) typicus*	Indian Ocean: Mauritius	do	E	3	8
Cuckoo-shrike, Reunion	*Coquus (=Coracina) newtoni*	Indian Ocean: Reunion	do	E	3	8
Curassow, red-billed	*Crax blumenbachi*	Brazil	do	E	4	8
Curassow, Trinidad white-headed	*Pipile pipile pipile*	West Indies: Trinidad	do	E	3	8
Curlew, Eskimo	*Numenius borealis*	Alaska and northern Canada to Argentina	do	E	1, 3	7
Dove, cloven-feathered	*Drepanoptila holosericea*	Southwest Pacific Ocean: New Caledonia	do	E	3	8

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Dove, Grenada	*Leptotila wellsi*	West Indies: Grenada	do	E	3	8
Dove, Palau ground	*Gallicolumba canifrons*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Duck, Hawaiian (=koloa)	*Anas wyvilliana*	U.S.A. (Hawaii)	do	E	1	1
Duck, Laysan	*Anas laysanensis*	do	do	E	1	1
Duck, white-winged wood	*Cairina scutulata*	India, Malaysia, Indonesia, Thailand	do	E	3	8
Eagle, Philippine (=monkey-eating)	*Pithecophaga jefferyi*	Philippines	do	E	3	8
Eagle, Spanish imperial	*Aquila heliaca adalberti*	Spain, Morocco, Algeria	do	E	3	8
Egret, Chinese	*Egretta eulophotes*	China, Korea	do	E	3	8
Finch, Laysan (honeycreeper)	*Telespyza (=Psittirostra) cantans*	U.S.A. (Hawaii)	do	E	1	1
Finch, Nihoa (honeycreeper)	*Telespyza (=Psittirostra) ultima*	do	do	E	1	1
Flycatcher, Euler's	*Empidonax euleri johnstonei*	West Indies: Grenada	do	E	3	8
Flycatcher, Palau fantail	*Rhipidura lepida*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Flycatcher, Seychelles paradise	*Terpsiphone corvina*	Indian Ocean: Seychelles	do	E	3	8
Flycatcher, Tahiti	*Pomarea nigra*	South Pacific Ocean: Tahiti	do	E	3	8
Flycatcher, Tinian monarch	*Monarcha takatsukasae*	Western Pacific Ocean: U.S.A. (Mariana Islands).	do	E	3	1
Gallinule, Hawaiian (moorhen)	*Gallinula chloropus sandvicensis*	U.S.A. (Hawaii)	do	E	1	1
Goose, Aleutian Canada	*Branta canadensis leucopareia*	U.S.A. (AK, CA, OR, WA), Japan	do	E	1, 3	7
Goose, Hawaiian (=nene)	*Nesochen (=Branta) sandvicensis*	U.S.A. (Hawaii)	do	E	1	1
Goshawk, Christmas Island	*Accipiter fasciatus natalis*	Indian Ocean: Christmas Island	do	E	3	8
Grackle, slender-billed	*Quiscalus (=Cassidix) palustris*	Mexico	do	E	3	8
Grasswren, Eyrean (flycatcher)	*Amytornis goyderi*	Australia	do	E	3	8
Grebe, Atitlan	*Podilymbus gigas*	Guatemala	do	E	3	8
Guan, horned	*Oreophasis derbianus*	Guatemala, Mexico	do	E	3	8
Gull, Audouin's	*Larus audouini*	Mediterranean Sea	do	E	3	8
Hawk, Anjouan Island sparrow	*Accipiter francesi pusillus*	Indian Ocean: Comoro Islands	do	E	3	8
Hawk, Galapagos	*Buteo galapagoensis*	Ecuador (Galapagos Island)	do	E	3	8
Hawk, Hawaiian (=io)	*Buteo solitarius*	U.S.A. (Hawaii)	do	E	1	1
Honeycreeper, crested (='akohekohe)	*Palmeria dolei*	do	do	E	1	1
Honeyeater, helmeted	*Meliphaga cassidix*	Australia	do	E	4	8
Ibis, Japanese crested	*Nipponia nippon*	China, Japan, U.S.S.R., Korea	do	E	3	8
Kagu	*Rhynochetos jubatus*	South Pacific Ocean: New Caledonia	do	E	3	8
Kakapo (=owl-parrot)	*Strigops habroptilus*	New Zealand	do	E	3	8
Kestrel, Mauritius	*Falco punctatus*	Indian Ocean: Mauritius	do	E	3	8
Kestrel, Seychelles	*Falco araea*	Indian Ocean: Seychelles Islands	do	E	3	8
Kite, Cuba hook-billed	*Chondrohierax uncinatus wilsonii*	West Indies: Cuba	do	E	3	8
Kite, Everglade (snail kite)	*Rostrhamus sociabilis plumbeus*	U.S.A. (Florida)	do	E	1	4
Kite, Grenada hook-billed	*Chondrohierax uncinatus mirus*	West Indies: Grenada	do	E	3	8
Kokako (wattlebird)	*Callaeas cinerea*	New Zealand	do	E	3	8
Magpie-robin, Seychelles (thrush)	*Copsychus sechellarum*	Indian Ocean: Seychelles Islands	do	E	3	8
Malkoha, red-faced (cuckoo)	*Phaenicophaeus pyrrhocephalus*	Sri Lanka (=Ceylon)	do	E	3	8
Megapode, La Perouse's	*Megapodius laperouse*	West Pacific Ocean: U.S.A. (Palau Island, Mariana Islands).	do	E	3	1
Megapode, Maleo	*Macrocephalon maleo*	Indonesia (Celebes)	do	E	3	8
Millerbird, Nihoa (old world warbler)	*Acrocephalus familiaris kingi*	U.S.A. (Hawaii)	do	E	1	1
Nukupu'u (honeycreeper)	*Hemignathus lucidus*	do	do	E	1, 2	1
'O'o, Kauai (='O'o 'A'a) (honeyeater)	*Moho braccatus*	do	do	E	1	1
Ostrich, Arabian	*Struthio camelus syriacus*	Jordan, Saudi Arabia	do	E	3	8
Ostrich, West African	*Struthio camelus spatzi*	Spanish Sahara	do	E	3	8
'O'u (honeycreeper)	*Psittirostra psittacea*	U.S.A. (Hawaii)	do	E	1	1
Owl, Anjouan scops	*Otus rutilus capnodes*	Indian Ocean: Comoro Island	do	E	3	8
Owl, Palau	*Pyroglaux (=Otus) podargina*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Owl, Seychelles	*Otus insularis*	Indian Ocean: Seychelles Islands	do	E	3	8
Owlet, Morden's (=Sokoke)	*Otus ireneae*	Kenya	do	E	3	8
Palila (honeycreeper)	*Loxioides (=Psittirostra) bailleui*	U.S.A. (Hawaii)	do	E	1	1
Parakeet, golden	*Aratinga guarouba*	Brazil	do	E	4	8
Parakeet, golden-shouldered (=hooded)	*Psephotus chrysopterygius*	Australia	do	E	3	8
Parakeet, Mauritius	*Psittacula echo*	Indian Ocean: Mauritius	do	E	3	8
Parakeet, ochre-marked	*Pyrrhura cruentata*	Brazil	do	E	3	8
Parakeet, orange-bellied	*Neophema chrysogaster*	Australia	do	E	4	8
Parakeet, paradise (=beautiful)	*Psephotus pulcherrimus*	do	do	E	4	8
Parakeet, scarlet-chested (=splendid)	*Neophema splendida*	do	do	E	4	8
Parakeet, turquoise	*Neophema pulchella*	do	do	E	3	8
Parrot, Australian	*Geopsittacus occidentalis*	do	do	E	3	8
Parrot, ground	*Pezoporus wallicus*	do	do	E	6	8
Parrot, imperial	*Amazona imperialis*	West Indies: Dominica	do	E	3	8
Parrot, Puerto Rican	*Amazona vittata*	U.S.A. (Puerto Rico)	do	E	1	4
Parrot, red-browed	*Amazona rhodocorytha*	Brazil	do	E	3	8
Parrot, red-necked	*Amazona arausiaca*	West Indies: Dominica	do	E	50	8
Parrot, St. Lucia	*Amazona versicolor*	West Indies: St. Lucia	do	E	3	8
Parrot, St. Vincent	*Amazona guildingii*	West Indies: St. Vincent	do	E	3	8
Parrot, thick-billed	*Rhynchopsitta pachyrhyncha*	Mexico, U.S.A. (AZ, NM)	Mexico	E	3	8
Parrotbill, Maui (honeycreeper)	*Pseudonestor xanthophrys*	U.S.A. (Hawaii)	Entire	E	1	1
Penguin, Galapagos	*Spheniscus mendiculus*	Ecuador (Galapagos Island)	do	E	3	8
Petrel, Hawaiian dark-rumped	*Pterodroma phaeopygia sandwichensis*	U.S.A. (Hawaii)	do	E	2, 4, 1	1
Pheasant, bar-tailed	*Syrmaticus humiae*	Burma, China	do	E	3	8
Pheasant, Blyth's tragopan	*Tragopan blythii*	Burma, China, India	do	E	3	8
Pheasant, brown eared	*Crossoptilon mantchuricum*	China	do	E	3	8
Pheasant, Cabot's tragopan	*Tragopan caboti*	do	do	E	3	8
Pheasant, Chinese monal	*Lophophorus lhuysii*	do	do	E	3	8
Pheasant, Edward's	*Lophura edwardsi*	Vietnam	do	E	3	8
Pheasant, imperial	*Lophura imperialis*	do	do	E	3	8
Pheasant, Mikado	*Syrmaticus mikado*	Taiwan	do	E	3	8
Pheasant, Palawan peacock	*Polyplectron emphanum*	Philippines	do	E	3	8
Pheasant, Sclater's monal	*Lophophorus sclateri*	Burma, China, India	do	E	3	8
Pheasant, Swinhoe's	*Lophura swinhoii*	Taiwan	do	E	3	8
Pheasant, western tragopan	*Tragopan melanocephalus*	India, Pakistan	do	E	3	8
Pheasant, white eared	*Crossoptilon crossoptilon*	China (Tibet), India	do	E	4	8
Pigeon, Azores wood	*Columba palumbus azorica*	East Atlantic Ocean: Azores	do	E	3	8

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Pigeon, Chatham Island	*Hemiphaga novaeseelandiae chathamensis*	New Zealand	do	E	3	8
Pigeon, Puerto Rican plain	*Columba inornata wetmorei*	U.S.A. (Puerto Rico)	do	E	2	4
Plover, New Zealand shore	*Thinornis novaeseelandiae*	New Zealand	do	E	3	8
Po'ouli (honeycreeper)	*Melamprosops phaeosoma*	U.S.A. (Hawaii)	do	E	10	1
Prairie-chicken, Attwater's greater	*Tympanuchus cupido attwateri*	U.S.A. (Texas)	do	E	1	2
Rail, Aukland Island	*Rallus pectoralis muelleri*	New Zealand	do	E	3	8
Rail, California clapper	*Rallus longirostris obsoletus*	U.S.A. (California)	do	E	2	1
Rail, light-footed clapper	*Rallus longirostris levipes*	U.S.A. (CA), Mexico (Baja California)	do	E	2	1
Rail, Yuma clapper	*Rallus longirostris yumanensis*	Mexico, U.S.A. (AZ, CA)	do	E	1	2
Rhea, Darwin's	*Pterocnemia pennata*	Argentina, Bolivia, Peru, Uruguay	do	E	3	8
Robin, Chatham Island	*Petroica traversi*	New Zealand	do	E	3	8
Robin, scarlet-breasted (flycatcher)	*Petroica multicolor multicolor*	Australia (Norfolk Island)	do	E	3	8
Rockfowl, grey-necked	*Picathartes oreas*	Cameroon, Gabon	do	E	3	8
Rockfowl, white-necked	*Picathartes gymnocephalus*	Africa: Togo to Sierra Leone	do	E	3	8
Roller, long-tailed ground	*Uratelornis chimaera*	Malagasy Republic (=Madagascar)	do	E	3	8
Scrub-bird, noisy	*Atrichornis clamosus*	Australia	do	E	3	8
Shama, Cebu black (thrush)	*Copsychus niger cebuensis*	Philippines	do	E	3	8
Sheerwater, Newell's (Townsend's, formerly Manx) (='A'o).	*Puffinus auricularis* (formerly *puffinus*) *newelli*.	U.S.A. (Hawaii)	do	T	10	1
Sparrow, Cape Sable seaside	*Ammospiza maritima mirabilis*	U.S.A. (Florida)	do	E	1	4
Sparrow, dusky seaside	*Ammospiza maritima nigrescens*	do	do	E	1	4
Starling, Ponape mountain	*Aplonis pelzelni*	West Pacific Ocean: U.S.A. (Caroline Island).	do	E	3	1
Starling, Rothschild's (myna)	*Leucopsar rothschildi*	Indonesia (Bali)	do	E	3	8
Stilt, Hawaiian (=Ae'o)	*Himantopus himantopus knudseni*	U.S.A. (Hawaii)	do	E	2	1
Stork, oriental white	*Ciconia ciconia boyciana*	China, Japan, Korea, U.S.S.R.	do	E	3	8
Tern, California least	*Sterna antillarum (=albifrons) browni*	Mexico, U.S.A. (CA)	do	E	2, 3	1
Thrasher, white-breasted	*Ramphocinclus brachyurus*	West Indies: St. Lucia, Martinique	do	E	3	8
Thrush, large Kauai	*Phaeornis obscurus myadestina*	U.S.A. (Hawaii)	do	E	2	1
Thrush, Molokai (=oloma'o)	*Phaeornis obscurus rutha*	do	do	E	2	1
Thrush, New Zealand (wattlebird)	*Turnagra capensis*	New Zealand	do	E	3	8
Thrush, small Kauai (=puaiohi)	*Phaeornis palmeri*	U.S.A. (Hawaii)	do	E	1	1
Trembler, Martinique brown (thrasher)	*Cinclocerthia ruficauda gutturalis*	West Indies: Martinique	do	E	3	8
Wanderer, plain (collared-hemipode)	*Pedionomous torquatus*	Australia	do	E	6	8
Warbler (willow), reed	*Acrocephalus luscinia*	Western Pacific Ocean: U.S.A. (Mariana Islands).	do	E	3	1
Warbler (willow), Rodriques	*Bebrornis rodericanus*	Mauritius (Rodrigues Islands)	do	E	3	8
Warbler (willow), Seychelles	*Bebrornis sechellensis*	Indian Ocean: Seychelles Island	do	E	3	8
Warbler (wood), Bachman's	*Vermivora bachmanii*	U.S.A. (southeastern), Cuba	do	E	1, 3	4
Warbler (wood), Barbados yellow	*Dendroica petechia petechia*	West Indies: Barbados	do	E	3	8
Warbler (wood), Kirtland's	*Dendroica kirtlandii*	U.S.A. (principally MI), Canada, West Indies: Bahama Islands.	do	E	1, 3	3
Warbler (wood), Semper's	*Leucopeza semperi*	West Indies: St. Lucia	do	E	3	8
Whipbird, Western	*Psophodes nigrogularis*	Australia	do	E	3	8
Whip-poor-will, Puerto Rican	*Caprimulgus noctitherus*	U.S.A. (Puerto Rico)	do	E	6	4
White-eye, Ponape great	*Rukia longirostra (=sanfordi)*	West Pacific Ocean: U.S.A. (Caroline Islands).	do	E	3	1
White-eye, Seychelles	*Zosterops modesta*	Indian Ocean: Seychelles	do	E	3	8
Woodpecker, imperial	*Campephilus imperialis*	Mexico	do	E	3	8
Woodpecker, red-cockaded	*Picoides (=Dendrocopos) borealis*	U.S.A. (southcentral and southeastern)	do	E	2	4
Woodpecker, Tristam's	*Dryocopus javensis richardsi*	Korea	do	E	3	8
Wren, Guadeloupe house	*Troglodytes aedon guadeloupensis*	West Indies: Guadeloupe	do	E	3	8
Wren, St. Lucia house	*Troglodytes aedon mesoleucus*	West Indies: St. Lucia	do	E	3	8
REPTILES						
Boa, Jamaican	*Epicrates subflavus*	Jamaica	do	E	3	8
Boa, Puerto Rico	*Epicrates inornatus*	U.S.A. (PR)	do	E	2	4
Boa, Round Island (no common name)	*Bolyeria multocarinata*	Indian Ocean: Mauritius	do	E	88	8
Boa, Round Island (no common name)	*Casarea dussumieri*	do	do	E	88	8
Boa, Virgin Islands tree	*Epicrates monensis granti*	U.S. and British Virgin Islands	do	E	2, 86	4
Caiman, Yacare	*Caiman crocodilus yacare*	Bolivia, Argentina, Peru, Brazil	do	E	3	8
Chuckwalla, San Esteban Island	*Sauromalus varius*	Mexico	do	E	88	8
Crocodile, African slender-snouted	*Crocodylus cataphractus*	Western and central Africa	do	E	5	8
Crocodile, American	*Crocodylus acutus*	U.S.A. (FL), Mexico, South America, Central America, Caribbean.	do	E	10, 87	8
Crocodile, Cuban	*Crocodylus rhombifer*	Cuba	do	E	3	8
Crocodile, Morelet's	*Crocodylus moreletii*	Mexico, Belize, Guatemala	do	E	3	8
Crocodile, Nile	*Crocodylus niloticus*	Africa	do	E	3	8
Crocodile, Orinoco	*Crocodylus intermedius*	South America: Orinoco River Basin	do	E	3	8
Crocodile, saltwater (=estuarine)	*Crocodylus porosus*	Southeast Asia, Australia, Papua-New Guinea, Pacific Islands.	Entire, except Papua-New Guinea.	E	87	6
Gecko, day	*Phelsuma edwardnewtoni*	Indian Ocean: Mauritius	Entire	E	3	8
Gecko, Round Island day	*Phelsuma guentheri*	do	do	E	3	8
Iguana, Anegada ground	*Cyclura pinguis*	West Indies: British Virgin Islands (Anegada Island).	do	E	3	8
Iguana, Barrington land	*Conolophus pallidus*	Ecuador (Galapegos Island)	do	E	3	8
Iguana, Fiji banded	*Brachylophus fasciatus*	Pacific: Fiji, Tonga	do	E	88	8
Iguana, Fiji crested	*Brachylophus vitiensis*	Pacific: Fiji	do	E	88	8
Lizard, blunt-nosed leopard	*Gambelia (=Crotaphytus) silus*	U.S.A. (CA)	do	E	1	1
Lizard, Coachella Valley fringe-toed	*Uma inornata*	do	do	T	105	1
Snake, San Francisco garter	*Thamnophis sirtalis tetrataenia*	do	do	E	1	1
Tartaruga	*Podocnemis expansa*	South America: Orinoco and Amazon River basins.	do	E	3	8
Terrapin, river (=Tuntong)	*Batagur baska*	Malaysia, Bangladesh, Burma, India, Indonesia.	do	E	3	8
Tortoise, Bolson	*Gopherus flavomarginatus*	Mexico	do	E	46	8
Tortoise, desert	*Scaptochelys (=Gopherus) agassizii*	U.S.A. (UT, AZ, CA, NV); Mexico	Beaver Dam Slope, Utah.	T	103	6

LIST OF SPECIES UNDER REVIEW—Continued

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Common name	Scientific name					
Tortoise, Galapagos	*Geochelone elephantopus*	Ecuador (Galapagos Islands)	Entire	E	3	8
Tortoise, radiated	*Geochelone (=Testudo) radiata*	Malagasy Republic (=Madagascar)	do	E	3	8
Tracaja	*Podocnemis unifilis*	South America: Orinoco and Amazon River basins.	do	E	3	8
Tuatara	*Sphenodon punctatus*	New Zealand	do	E	3	8
Turtle, aquatic box	*Terrapene coahuila*	Mexico	do	E	6	8
Turtle, hawksbill sea (=caroy)	*Eretmochelys imbricata*	Tropical seas	do	E	3	2
Turtle, Kemp's (=Atlantic) Ridley sea	*Lepidochelys kempii*	Tropical and temperate seas in Atlantic Basin.	do	E	4	2
Turtle, leatherback sea	*Dermochelys coriacea*	Tropical, temperate, and subpolar seas	do	E	3	2
Turtle, Plymouth red-bellied	*Pseudemys (=Chrysemys) rubriventris bangsi.*	U.S.A. (Massachusetts)	do	E	90	5
Turtle, short-necked or western swamp	*Pseudemydura umbrina*	Australia	do	E	3	8
AMPHIBIANS						
Frog, Israel painted	*Discoglossus nigriventer*	Israel	do	E	3	8
Frog, Stephen Island	*Leiopelma hamiltoni*	New Zealand	do	E	3	8
Salamander, desert slender	*Batrachoseps aridus*	U.S.A. (California)	do	E	6	1
Salamander, San Marcos	*Eurycea nana*	U.S.A. (Texas)	do	T	98	2
Salamander, Santa Cruz long-toed	*Ambystoma macrodactylum croceum*	U.S.A. (California)	do	E	1	1
Salamander, Texas blind	*Typhlomolge rathbuni*	U.S.A. (Texas)	do	E	1	2
Toad, Houston	*Bufo houstonensis*	do	do	E	2	2
FISHES						
Ala Balik (trout)	*Salmo platycephalus*	Turkey	do	E	3	8
Ayumodoki (loach)	*Hymenophysa (=Botia) curta*	Japan	do	E	3	8
Blindcat, Mexican (catfish)	*Prietella phreatophila*	Mexico	do	E	3	8
Bonytail, Pahranagat	*Gila robusta jordani*	U.S.A. (Nevada)	do	E	2	1
Catfish, giant	*Pangasianodon gigas*	Thailand	do	E	3	1
Catfish [no common name]	*Pangasius sanitwongsei*	do	do	E	3	8
Chub, bonytail	*Gila elegans*	U.S.A. (AZ, CA, CO, NV, UT, WY)	do	E	92	6
Chub, humpback	*Gila cypha*	U.S.A. (AZ, CO, UT, WY)	do	E	1	6
Chub, Mohave tui	*Gila bicolor mohavensis (=G. mohavensis).*	U.S.A. (California)	do	E	2	1
Cicek (minnow)	*Acanthorutilus handlirschi*	Turkey	do	E	3	8
Cui-ui	*Chasmistes cujus*	U.S.A. (Nevada)	do	E	1	1
Dace, Kendall Warm Springs	*Rhinichthys osculus thermalis*	U.S.A. (Wyoming)	do	E	2	6
Dace, Moapa	*Moapa coriacea*	U.S.A. (Nevada)	do	E	1	1
Darter, bayou	*Etheostoma rubrum*	U.S.A. (Mississippi)	do	T	10	4
Darter, fountain	*Etheostoma fonticola*	U.S.A. (Texas)	do	E	2	2
Darter, Maryland	*Etheostoma sellare*	U.S.A. (Maryland)	do	E	1	5
Darter, Okaloosa	*Etheostoma okaloosae*	U.S.A. (Florida)	do	E	6	4
Darter, watercress	*Etheostoma nuchale*	U.S.A. (Alabama)	do	E	2	4
Gambusia, Amistad (=Goodenough)	*Gambusia amistadensis*	do	do	E	93	4
Gambusia, Big Bend	*Gambusia gaigei*	U.S.A. (Texas)	do	E	1	2
Gambusia, Clear Creek	*Gambusia heterochir*	do	do	E	1	2
Gambusia, Pecos	*Gambusia nobilis*	U.S.A. (NM, TX)	do	E	2	2
Gambusia, San Marcos	*Gambusia georgei*	U.S.A. (Texas)	do	E	98	2
Killifish, Pahrump	*Empetrichthys latos*	U.S.A. (Nevada)	do	E	1	1
Madtom, Scioto	*Noturus trautmani*	U.S.A. (Ohio)	do	E	10	3
Nekogigi (catfish)	*Coreobagrus ichikawai*	Japan	do	E	3	8
Pupfish, Comanche Springs	*Cyprinodon elegans*	U.S.A. (Texas)	do	E	1	2
Pupfish, Devils Hole	*Cyprinodon diabolis*	U.S.A. (Nevada)	do	E	1	1
Pupfish, Leon Springs	*Cyprinodon bovinus*	U.S.A. (Texas)	do	E	102	2
Pupfish, Owens River	*Cyprinodon radiosus*	U.S.A. (California)	do	E	1	1
Pupfish, Warm Springs	*Cyprinodon nevadensis pectoralis*	U.S.A. (Nevada)	do	E	2	1
Squawfish, Colorado	*Ptychocheilus lucius*	U.S.A. (AZ, CA, CO, NM, NV, UT, WY), Mexico.	do	E	1	6
Stickleback, unarmored threespine	*Gasterosteus aculeatus williamsoni*	U.S.A. (California)	do	E	2	1
Tango, Miyako (Tokyo bitterling)	*Tanakia tanago*	Japan	do	E	3	8
Topminnow, Gila	*Poeciliopsis occidentalis*	U.S.A. (AZ, NM), Mexico	do	E	1	2
Trout, Apache (=Arizona)	*Salmo apache*	U.S.A. (Arizona)	do	T	1, 8	2
Trout, Gila	*Salmo gilae*	U.S.A. (New Mexico)	do	E	1	2
Trout, Lahontan cutthroat	*Salmo clarki henshawi*	U.S.A. (CA, NV)	do	T	2, 8	1
Trout, Paiute cutthroat	*Salmo clarki seleniris*	do	do	T	1, 8	1
Woundfin	*Plagopterus argentissimus*	U.S.A. (AZ, NV, UT)	do	E	2	
SNAILS						
Snail, Manus Island tree	*Papustyla pulcherrima*	Pacific Ocean: Admiralty Is. (Manus Is.)	NA	E	3	8
INSECTS						
Beetle, Delta green ground	*Elaphrus viridis*	U.S.A. (California)	NA	T	100	1
Beetle, valley elderberry longhorn	*Desmocerus californicus dimorphus*	do	NA	T	99	1
Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	U.S.A. (OR, WA)	NA	T	95	1
Butterfly, Palos Verdes blue	*Glaucopsyche lygdamus palosverdesensis*	U.S.A. (California)	NA	E	96	1
Moth, Kern primrose sphinx	*Euproserpinus euterpe*	do	NA	T	91	1

1—32 FR 4001; March 11, 1967.
2—35 FR 18047; October 13, 1970.
3—35 FR 8495; June 2, 1970.
4—35 FR 18320; December 2, 1970.
5—37 FR 6476; March 30, 1972.
6—38 FR 14678; June 4, 1973.
7—39 FR 44991; December 30, 1974.
8—40 FR 29864; July 16, 1975.
9—40 FR 31736; July 28, 1975.
10—40 FR 44151; September 25, 1975.
11—40 FR 44418; September 26, 1975.
12—40 FR 47506; October 9, 1975.
45—44 FR 21289; April 10, 1979.
46—44 FR 23064; April 17, 1979.
48—44 FR 29480; May 21, 1979.
50—44 FR 37126; June 25, 1979.
51—44 FR 37132; June 25, 1979.
52—44 FR 42911; July 20, 1979.
54—44 FR 49220; August 21, 1979.
55—44 FR 54007; September 17, 1979.
60—44 FR 59084; October 12, 1979.

85—44 FR 69208; November 30, 1979.
86—44 FR 70677; December 7, 1979.
87—44 FR 75076; December 18, 1979.
88—45 FR 18010; March 20, 1980.
90—45 FR 21833; April 2, 1980.
91—45 FR 24090; April 8, 1980.
92—45 FR 27713; April 23, 1980.
93—45 FR 28722; April 30, 1980.
94—45 FR 35821; May 28, 1980.
95—45 FR 44935; July 2, 1980.
96—45 FR 44939; July 2, 1980.
97—45 FR 47352; July 14, 1980.
98—45 FR 47355; July 14, 1980.
99—45 FR 52803; August 8, 1980.
100—45 FR 52807; August 8, 1980.
102—45 FR 54678; August 15, 1980.
103—45 FR 55654; August 20, 1980.
105—45 FR 63812; September 25, 1980.
106—45 FR 65132; October 1, 1980.

Species		Historic range	Status	When listed	Office receiving comment
Scientific name	Common name				
Alismataceae—Water-plantain family:					
Sagittaria fasciculata	Bunched arrowhead	U.S.A. (NC, SC)	E	53	4
Asteraceae—Aster family:					
Echinacea tennesseensis	Tenneesee purple coneflower	U.S.A. (TN)	E	49	4
Lipochaeta venosa	None	U.S.A. (HI)	E	73	1
Berberidaceae—Barberry family:					
Mahonia sonnei (=*Berberis s.*)	Truckee barberry	U.S.A. (CA)	E	76	1
Cactaceae—Cactus family:					
Ancistrocactus tobuschii (=*Echinocactus t., Mammillaria t.*)	Tobusch fishhook cactus	U.S.A. (TX)	E	80	2
Coryphantha minima (=*C. nellieae, Escobaria n., Mammillaria n.*)	Nellie cory cactus	do	E	81	2
Coryphantha ramillosa	Bunched cory cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	2
Coryphantha sneedii var. *leei* (=*Escobaria l., Mammillaria l.*)	Lee pincushion cactus	U.S.A. (NM)	T	61	2
Coryphantha sneedii var. *sneedii* (=*Escobaria s., Mammillaria s.*)	Sneed pincushion cactus	U.S.A. (TX, NM)	E	82	2
Echinocactus horizonthalonius var. *nicholii*	Nichol's Turk's head cactus	U.S.A. (AZ)	E	71	2
Echinocereus engelmannii var. *purpureus*	Purple-spined hedgehog cactus	U.S.A. (UT)	E	56	6
Echinocereus fendleri var. *kuenzleri* (=*E. kuenzleri, E. hempelii* of authors, not Fobe).	Kuenzler hedgehog cactus	U.S.A. (NM)	E	70	2
Echinocereus lloydii (=*E. roetteri* var. *l.*)	Lloyd's hedgehog cactus	U.S.A. (TX)	E	67	2
Echinocereus reichenbachii var. *albertii* (=*E. melanocentrus*)	Black lace cactus	do	E	68	2
Echinocereus triglochidiatus var. *arizonicus* (=*E. arizonicus*)	Arizona hedgehog cactus	U.S.A. (AZ)	E	62	2
Echinocereus triglochidiatus var. *inermis* (=*E. coccineus* var. *i., E. phoeniceus* var. *i.*).	Spineless hedgehog cactus	U.S.A. (CO, UT)	E	83	6
Echinocereus viridiflorus var. *davisii* (=*E. davisii*)	Davis' green pitaya	U.S.A. (TX)	E	81	2
Neolloydia mariposensis (=*Echinocactus m., Echinomastus m.*)	Lloyd's Mariposa cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	2
Pediocactus bradyi (=*Toumeya b.*)	Brady pincushion cactus	U.S.A. (AZ)	E	63	2
Pediocactus knowltonii (=*P. bradyi* var. *k. Toumeya k.*)	Knowlton cactus	U.S.A. (NM, CO)	E	72	
Pediocactus peeblesianus var. *peeblesianus* (=*Echinocactus p., Navajoa p., Toumeya p., Utahia p.*).	Peebles Navajo cactus	U.S.A. (AZ)	E	69	2
Pediocactus sileri (=*Echinocactus s., Utahia s.*)	Siler pincushion cactus	U.S.A. (AZ, UT)	E	64	2
Sclerocactus glaucus (=*Echinocactus g., E. subglaucus, E. whipplei* var. *g., Pediocactus g., S. franklinii, S. whipplei* var. *g.*).	Uinta Basin hookless cactus	U.S.A. (CO, UT)	T	59	6
Sclerocactus mesae-verdae (=*Coloradoa m., Echinocactus m., Pediocactus m.*).	Mesa Verde cactus	U.S.A. (CO, NM)	T	75	6
Sclerocactus wrightiae (=*Pediocactus w.*)	Wright fishhook cactus	U.S.A. (UT)	E	58	6
Cistaceae—Rockrose family:					
Hudsonia montana	Mountain golden heather	U.S.A. (NC)	T	107	4
Cupressaceae—Cypress family:					
Fitzroya cupressoides	Chilean false larch (=alerce)	Chile, Argentina	T	79	6
Ericaceae—Heath family:					
Arctostaphylos pungens var. *ravenii* (=*A. hookeri* ssp. *ravenii*)	Presidio (=Raven's) manzanita	U.S.A. (CA)	E	65	1
Rhododendron chapmanii	Chapman rhododendron	U.S.A. (FL)	E	47	4
Lamiaceae—Mint family:					
Haplostachys haplostachya var. *angustifolia*	None	U.S.A. (HI)	E	73	1
Pogogyne abramsii	San Diego mesa mint	U.S.A. (CA)	E	44	1
Stenogyne angustifolia var. *angustifolia*	None	U.S.A. (HI)	E	73	1
Liliaceae—Lily family:					
Harperocallis flava	Harper's beauty	U.S.A. (FL)	E	57	4
Malvaceae—Mallow family:					
Kokia cookei	Cooke's kokio	U.S.A. (HI)	E	74	1
Nyctaginaceae—Four-o'clock family:					
Mirabilis macfarlanei	MacFarlane's four-o'clock	U.S.A. (ID, OR)	E	66	1
Papaveraceae—Poppy family:					
Arctomecon humilis	Dwarf bear-poppy	U.S.A. (UT)	E	78	6
Pinaceae—Pine family:					
Abies guatemalensis	Guatemalan fir (=pinabete)	Mexico, Guatemala, Honduras, El Salvador.	T	84	8
Rosaceae—Rose family:					
Potentilla robbinsiana	Robbins' cinquefoil	U.S.A. (NH, VT)	E	104	5
Sarraceniaceae—Pitcher plant family:					
Sarracenia oreophila	Green pitcher plant	U.S.A. (AL, GA, TN)	E	56, 89	4

E—Indicates Emergency rule publication (see FR document for effective dates); subsequent number(s) indicate FR final rule, if applicable.
EDITORIAL NOTE: For "When listed" citations, see list following.

47—44 FR 24250; April 24, 1979.
49—44 FR 32605; June 6, 1979.
53—44 FR 43701; July 25, 1979.
56—44 FR 54923; September 21, 1979.
57—44 FR 58863; October 2, 1979.
58—44 FR 58868; October 11, 1979.
59—44 FR 58870; October 11, 1979.
61—44 FR 61556; October 25, 1979.
62—44 FR 61558; October 25, 1979.
63—44 FR 61786; October 26, 1979.
64—44 FR 61788; October 26, 1979
65—44 FR 61911; October 26, 1979.

66—44 FR 61913; October 26, 1979.
67—44 FR 61916; October 26, 1979.
68—44 FR 61920; October 26, 1979.
69—44 FR 61924; October 26, 1979.
70—44 FR 61927; October 26, 1979.
71—44 FR 61929; October 26, 1979.
72—44 FR 62246; October 26, 1979.
73—44 FR 62469; October 30, 1979.
74—44 FR 62471; October 30, 1979.
75—44 FR 62474; October 30, 1979.
76—44 FR 64247; November 6, 1979.
77—44 FR 64250; November 6, 1979.
78—44 FR 64252; November 6, 1979.
79—44 FR 64733; November 7, 1979.
80—44 FR 64738; November 7, 1979.
81—44 FR 64740; November 7, 1979.
82—44 FR 64743; November 7, 1979.
83—44 FR 64746; November 7, 1979.
84—44 FR 65005; November 8, 1979.
89—45 FR 18929; March 24, 1980.
104—45 FR 61944; September 17, 1980.
107—45 FR 69360; October 20, 1980.

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federal register

Monday
July 22, 1985

Part V

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 531

Passenger Automobile Average Fuel Economy Standards; Model Year 1986; Notice of Proposed Rulemaking and Public Meeting

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. FE-85-01; Notice 2]

Passenger Automobile Average Fuel Economy Standards; Model Year 1986

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

ACTION: Notice of proposed rulemaking (NPRM); Notice of public meeting.

SUMMARY: This notice proposes to amend the average fuel economy standard applicable to passenger automobiles manufactured in model year (MY) 1986 and invites written and oral comments concerning the proposed action. This notice also announces the time and location of the public meeting to receive the oral comments. In March 1985, both General Motors (GM) and Ford submitted petitions for rulemaking requesting that NHTSA reduce the automotive fuel economy standards for passenger cars for the 1986 model year and beyond from 27.5 mpg to 26.0 mpg. The petitioners stated that factors beyond their control, including lower gasoline prices and resultant greater consumer demand for larger cars and engines, had reduced the maximum feasible average fuel economy level. Based on a detailed agency analysis, NHTSA is proposing to amend the MY 1986 standard to 26.0 mpg. Due to the fact that the agency needs more time to complete its analysis of the data for MY 1987 and subsequent years, the agency will not consider petitions for those years at this time. The agency currently anticipates issuing a notice simultaneously with its announcement of a final decision for model year 1986 or shortly thereafter, proposing a range of alternatives for passenger car standards for model year 1987 and subsequent years.

DATES: *Public Comments:* Written comments on this notice must be received on or before August 21, 1985.

Public Meeting: A public meeting to receive oral comments will be held on August 8–9, 1985, in Washington, D.C. The agency at this time intends to limit the meeting to two days, from 9:00 a.m. to 12:00 noon and 2:00 p.m. to 5:00 p.m.

Effective Date: The proposed amendment would be effective for the 1986 model year.

ADDRESSES: *Public Comments:* Written comments on this notice must refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. The Docket is open 8 a.m. to 4 p.m., Monday through Friday. Submissions containing information for which confidential treatment is requested should be submitted (in 3 copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590, and 7 additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

Public Meeting: The meeting will be held at the following location: Federal Aviation Administration Auditorium, 800 Independence Avenue, S.W., Washington, D.C. 20591.

This facility is accessible to the handicapped.

FOR FURTHER INFORMATION CONTACT: All questions concerning the public meeting should be directed to: Ms. Viola Walsh, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0670). All other questions should be directed to: Mr. William Boehly, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION:

Background

A. The Energy Policy and Conservation Act

1. Overview

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, the Congress enacted the Energy Policy and Conservation Act. Based on the relatively low average fuel economy of cars at that time (14 mpg for model year 1974 cars) and on a report by the Department of Transportation on the potential for improving that average, Congress included a provision in that Act establishing the automotive fuel economy regulatory program. That provision added a new title, Title V, "Improving Automotive Efficiency," to the Motor Vehicle Information and Cost Savings Act.

Title V specified corporate average fuel economy (CAFE) standards for cars of 18, 19 and 20 mpg for model years 1978, 1979, and 1980, respectively, and 27.5 mpg for 1985 and thereafter. The Secretary of Transportation was required to establish standards for model years 1981–84. Section 502(a)(3) required that the standards for each of those model years be set at a level which (1) was the maximum feasible average fuel economy level and (2) would result in steady progress toward meeting the 27.5 mpg standard for model year 1985.

Although Congress clearly established the 27.5 mpg value as a goal to strive for (27.5 mpg is roughly twice the MY 1974 estimated CAFE), it recognized that such long-term goals are subject to considerable uncertainty. As a means of adjusting the standards based on up-to-date information and changing trends and assumptions, the Act permits the standard to be changed by the Department. Section 502(a)(4) provides that the Secretary of Transportation can raise or lower the 27.5 mpg standard for model year 1985 or for any subsequent model year if he or she determines that some other standard represents the maximum feasible average fuel economy level. In determining maximum feasible average fuel economy, the Secretary is required under section 502(e) of the Act to consider four factors: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.[1]

Title V specifies several special rules regarding compliance with the fuel economy standards. In an attempt to prevent the fuel economy program from inducing domestic manufacturers to increase their importation of foreign produced cars, Title V requires manufacturers to meet average fuel economy standards separately for their domestically manufactured and imported fleets. See section 503. Also, the Act does not require absolute compliance with the standard for each year. Instead, it allows a shortfall in one year to be offset if a manufacturer exceeds the standard for another year. Under the Act, as amended by the Automobile Fuel Efficiency Act of 1980, manufacturers earn credits for exceeding average fuel economy standards which may be carried back for three model years or carried forward for three model years. See section 502(1). In order to use carryback credits in advance of their actually being earned, manufacturers must submit a plan demonstrating that the credits will be earned. Such plans are subject to DOT approval.

[1] Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA (41 FR 25015, June 22, 1976).

Under section 507 of the Act, it is unlawful conduct for a manufacturer not to meet an average fuel economy standard. Compliance is determined after taking into consideration available credits. The penalty for such unlawful conduct is payment of civil penalties, computed at $5 per each tenth of a mile a manufacturer falls below the standard, multiplied by its production volume for the year in question.

2. Congressional Intent

While the Congress established a goal of 27.5 mpg, it also provided the necessary flexibility to the Department to adjust the standards, upwards or downwards, to the maximum feasible level.

The report accompanying H.R. 7014, the bill containing the House version of the fuel economy provisions (which would have specified a 28.0 mpg standard for 1985 and thereafter), stated that "the automobile industry has a central role in our national economy and that any regulatory program must be carefully drafted so as to require of the industry what is attainable without either imposing impossible burdens on it or unduly limiting consumer choice as to capacity and performance of motor vehicles." H.R. Rep. No. 94-340, 94th Cong., 1st Sess. 87 (1975). As another indication of congressional view of the need for flexibility, the report recognized the difficulty in establishing goals ten years in the future by stating that "(t)he 1985 average fuel economy standard presented a different problem [than establishing standards for MY's 1978-80] because of the high level of uncertainty which attends any attempt to predict technological feasibility a decade into the future." Id. at 88. The Committee also stated that although the 1985 standard was a "clear target," it also provided DOT the ability to amend that target so as to provide the program "with the necessary flexibility." Ibid.

Congress thus recognized that the ability of the industry to meet the 27.5 mpg standard was subject to uncertainty and that the standard might have to be changed. It is noteworthy that the Secretary was given authority to lower the standard for MY 1985 or for any subsequent year to 26.0 mpg without such action being subject to a one-house veto. Conversely, any action to raise the standard above 27.5 mpg or to lower it beyond 26.0 mpg was subject to that form of congressional review and disapproval. While such legislative vetoes have since been declared unconstitutional, the separate treatment in the original legislation of action to lower the standard to any level between 26.0 mpg and 27.5 mpg appears to reflect Congress' view of the likelihood of such events and its willingness to accept—without formal review—Departmental actions which might make slight changes in the long-term goal established by the Act.[2]

B. Setting the 1981-84 Standards

On June 30, 1977, NHTSA published in the **Federal Register** (42 FR 33534) a final rule establishing the 1981-84 passenger automobile CAFE standards. The selected standards were 22 mpg for 1981, 24 mpg for 1982, 26 mpg for 1983, and 27 mpg for 1984.

As part of establishing the 1981-84 standards, the agency developed estimates of the maximum feasible fuel economy for each manufacturer for model years 1981 through 1985. The agency's conclusion at the time was that "levels of average fuel economy in excess of 27.5 mpg are achievable in the 1985 time frame." 42 FR 33552. The agency believed that it was feasible for General Motors to achieve an average fuel economy level of 28.9 mpg in model year 1985, Ford 27.9 mpg, and Chrysler 28.7 mpg. 1977 Rulemaking Support Paper (RSP), p. 5-38 (Table 5.11). Those levels were based on a number of assumptions, including the ability of manufacturers to maintain a rapid rate of introduction of technology, consumer acceptance of a 10 percent reduction in vehicle acceleration, and significant use of a widespread range of technological options, including weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory losses, and reduced tire rolling resistance.

The agency's estimates did not assume a downward mix shift in automobile sizes or the use of diesel engines. The agency concluded that a standard set at a level that required substantial mix shifts would not be economically practicable due to the risk that a significant number of consumers might defer purchasing new automobiles, resulting in a substantial sales drop. However, these techniques were viewed in the 1977 rule as "constituting a safety margin" for manufacturers in the event that other technological improvements did not result in sufficient CAFE improvements. 42 FR 33545, June 30, 1977.

As to foreign manufacturers, the 1977 RSP projected that all but three of them could improve their average fuel economy levels, without expanded use of diesel engines, sufficiently to meet the 27.5 mpg standard. With fleet fuel economy improvements from additional diesels included in the foreign fleet projections, only one manufacturer, Mercedes-Benz, was projected to fall below the 1985 standard.

It should be emphasized that the agency's 1977 estimates were intended to demonstrate the feasibility of achieving the 27.5 mpg standard and not to predict what specific actions the manufacturers would actually take to achieve that standard. The agency's estimates were based on one scenario of what the agency believed manufacturers could do to achieve an average fuel economy level of 27.5 mpg by 1985. Manufacturers were free to pursue other courses of action to achieve the 27.5 mpg fuel economy level.

Subsequent to the issuance of the June 1977 final rule, the domestic manufacturers all indicated they expected to comply with the requirements.

C. Events From 1977 to 1985

In January 1979, NHTSA presented new feasibility estimates for each manufacturer for model years 1980 through 1985 in its Third Annual Report to the Congress on the Automotive Fuel Economy Program (44 FR 5742, January 29, 1979). The agency concluded that "(o)n balance, the conclusions reached during the 1981-84 rulemaking . . . are similar to those resulting from the most recent assessments. These assessments indicate that all domestic manufacturers can exceed the scheduled standards for each year through 1985." 44 FR 5757.

NHTSA recognized in its Third Annual Report that the changes in vehicle design necessary to meet the fuel economy projections would require tremendous outlays of capital. The agency stated:

. . . the important impact of the fuel economy program on the industry relates directly to the fact that the industry must have the resources directly to generate an "extra" $11.5 billion in capital. This ability to make increased investments while maintaining financial health is the criterion which was of prime importance in determining whether the standards are "economically practicable." The Department largely views this criterion to mean that the investment requirements are within the industry's capability but not so

[2] While section 502(a)(4) of the Cost Savings Act permits the Department to establish fuel economy standards for passenger automobiles at levels other than 27.5 mpg for model year 1985 or any subsequent model year, it provided that changes outside the range of 26.0 to 27.5 mpg were subject to a one-house legislative veto. Such vetoes were declared unconstitutional in the Supreme Court's 1983 *Chodha* decision. The Deparment of Justice has advised that the legislative veto provision in section 502(a)(4) is fully separable from the balance of the section. Thus, the Department of Transportation retains its authority to establish fuel economy standards both within and outside the 26.0 to 27.5 mpg range, so long as the standard is at the "maximum feasible" level for the model year in question.

stringent as to threaten economic hardship for the industry as a whole. 44 FR 5765.

NHTSA also recognized that its feasibility estimates were dependent on the continued financial health of the industry and could be subject to change in the event of a severe economic downturn. The agency stated:

DOT also analyzed the degree to which potential anti-competitive pressures would be increased if the economy were to suffer a downturn. Certainly in a severe economic downturn, companies with a weaker financial base will find their resources strained more severely. . . . Thus, if a serious decline in auto sales occurs in conjunction with a severe economic downturn, the Department has the authority to revise the standards since regulations that were "economically practicable" in a healthy economy might not be so in a recession. . . . 44 FR 5772.

The Third Annual Report noted that a number of manufacturers did not agree with the agency's conclusion that "(t)he technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg without reducing vehicle interior space or significantly affecting performance and without significantly changing the mix of size classes." The document stated:

Ford indicated the conclusion is wishful thinking on NHTSA's part. The technology on which Ford's predictions are based are the PROCO and/or diesel engines. They indicated that neither engine is "available" at the present time because of various problems yet to be solved. Ford also said the second round of downsizing will decrease interior volume unless very expensive materials are used and indicated that smaller engines in its vehicles will cause reduced vehicle acceleration.

GM stated that the rise of standards at the rate of two miles-per-gallon per year will cause all manufacturers to introduce unproven technology and that there will be compromises in vehicle acceleration and owner utility. GM stated that much of the available technology is "high risk," and may not be "commercially practicable in production hardware." 44 FR 5775–5776.

Between January and May of 1979, NHTSA received a number of submissions from Ford and General Motors on the 1981–84 fuel economy standards for passenger automobiles asserting that those standards should be reduced. In response to these submissions, the agency published a document entitled "Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981–85 Passenger Automobiles," DOT HS–804 731, June 1979. The report concluded that the standards were technologically feasible and economically practicable and noted that both companies had submitted product plans for meeting the standards. Report, p. 14. The report noted that the product plans submitted by the two companies differed from each other significantly and also differed from the paths projected by NHTSA in its prior rulemaking on standards for MY 1981–84 and in the January 1979 Report to Congress. Report, p. 5.

One year later, the nation was in the midst of another energy crisis, brought on by events in Iran. Gasoline prices were rising rapidly, creating significantly increased consumer demand for small cars. The U.S. city average retail price for unleaded gasoline rose from 90 cents per gallon in 1979 to $1.25 in 1980. (In 1981 dollars, this increase was from $1.24 in 1979 to $1.57 in 1980.) In light of these changed conditions, the industry announced plans to significantly exceed the 27.5 mpg standard for 1985. Both Ford and GM, as well as Chrysler and American Motors, indicated that they expected to achieve average fuel economy in excess of 30 mpg for that model year. Product plans submitted to NHTSA by those companies indicated that the projections assumed significant mix shifts toward smaller cars and rapid introduction of new technology. A letter submitted to the agency by Ford in July 1980, however, cautioned that "it is important to emphasize that the affordability of many of these programs is dependent upon substantial improvement in the market and economic conditions."

On January 26, 1981, NHTSA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (46 FR 8056) which addressed the issue of passenger automobile fuel economy standards for model year 1985 and beyond. That notice and an accompanying paper entitled "Analysis of Post-1985 Fuel Economy," assumed that manufacturers would achieve their announced average fuel economy goals of over 30 mpg for 1985. The notice also took note, however, of a deepening economic crisis then facing the auto industry and possible effects on financing investments for improving fuel economy. The notice stated:

A major issue is the capability of the domestic manufacturers to finance investments for fuel economy improvements after 1985 when they have strained that capability to make the investments needed to meet the fuel economy standards through model year 1985. It is expected that the combined losses of the domestic manufacturers for 1980 will exceed $4.5 billion. The domestic automobile industry's traditionally more profitable mid and large size passenger automobiles are once again selling poorly, while smaller passenger automobiles are selling at very high volumes. Indefinite layoffs of automobile workers now exceed 175,000, and significant operational cash shortfalls are being projected for the domestic manufacturers in the early 1980's. This will involve substantial borrowing by the domestic manufacturers, whereas they have traditionally used internal sources of funds for capital expenditures. Thus, the pace at which the domestic manufacturers can improve their fuel economy must be closely examined. . . . 46 FR 8058–8059.

On April 16, 1981, NHTSA published in the **Federal Register** (46 FR 22243) a notice withdrawing the ANPRM. The notice stated that "(t)his action is being taken in recognition of market pressures which are creating strong consumer demand for fuel-efficient vehicles and sending clear signals to the vehicle manufacturers to produce such vehicles. It is expected that the market will continue to act as a powerful catalyst. . . .

Conditions affecting fuel economy changed dramatically after 1981, following decontrol of domestic oil and other external factors increasing available supplies. Gasoline prices did not continue to rise but instead declined over time. This, combined with economic recovery, caused consumer demand to shift back toward larger cars and larger engines. Data submitted to the agency by GM and Ford in mid-1983 indicated that instead of achieving fuel economy well in excess of the 27.5 mpg standard for MY 1985, they would be unable to meet the levels prescribed by the standard.

During the 1977 to 1985 timeframe, NHTSA twice found it necessary to reduce previously set CAFE standards for light trucks, based on changed circumstances. As with passenger car standards, the Motor Vehicle Information and Cost Savings Act requires that light truck standards be set at the maximum feasible average fuel economy level. In June 1979, the agency reduced the 1981 light truck average fuel economy standard. 44 FR 36975 (June 25, 1979). In October 1984, the agency reduced the 1985 light truck average fuel economy standard. 49 FR 41250, October 22, 1984.

Petitions

In March 1985, both GM and Ford submitted petitions for rulemaking requesting that NHTSA reduce the automotive fuel economy standards for passenger cars for the 1986 model year and beyond from 27.5 mpg to 26.0 mpg. The petitioners stated that factors beyond their control, including lower gasoline prices and resultant greater consumer demand for larger cars and engines, had reduced their fuel economy capability. NHTSA granted the GM and Ford petitions in a notice published in

the **Federal Register** (50 FR 12344) on March 28, 1985, and requested public comments. The agency noted that it was already considering, in connection with a petition for rulemaking submitted by the Center for Auto Safety (CFAS) and the Environmental Policy Institute (EPI), whether the fuel economy standards for passenger cars manufactured in model years 1987 and thereafter should be amended. The CFAS/EPI petition had requested that those standards be increased.

NHTSA stated in the March 1985 notice that as a first step in its consideration of the fuel economy standards for passenger cars, it was focusing its attention on the 1986 model year. The agency explained that it believed this approach was appropriate in view of the possibility of serious economic harm cited by GM and Ford and the limited remaining time for amending the 1986 standard. As discussed by the agency in a previous **Federal Register** notice, amendments reducing a standard for a particular model year may be made until the beginning of the model year, but not after that time. See 49 FR 41254–5 (October 22, 1984).

Due to the fact that the agency needs more time to complete its analysis of the data for MY 1987 and subsequent years, the agency will not consider petitions for those years at this time. The agency currently anticipates issuing a notice simultaneously with its announcement of a final decision for model year 1986 or shortly thereafter, proposing a range of alternatives for model year 1987 and subsequent years.

Public Comments on the Petitions

Comments were received both from parties strongly supporting a reduction in the 1986 passenger car CAFE standard and parties strongly opposing such action. The National Automobile Dealers Association (NADA), the Automobile Importers of America (AIA), several limited-line European automobile manufacturers, the U.S. Department of Commerce, several members of Congress, and various private individuals supported the GM and Ford petitions.

NADA cited increased consumer demand for larger, less fuel-efficient vehicles and stated that the 27.5 mpg CAFE standard forces manufacturers to choose between either unlawful conduct or curtailment of product offerings and/or creation of market disincentives to the purchase of larger, less fuel-efficient passenger cars. According to NADA, either alternative would likely result in serious adverse consequences for affected manufacturers, their franchised dealers, consumers, and the nation's economy in general.

The European manufacturers generally cited the significant progress they have already made in improving fuel economy, increased market demand for larger cars and larger engines, and the difficulty limited-line manufacturers have in achieving higher average fuel economy if they do not produce small cars whose fuel economy can be averaged in with that of their larger cars.

The U.S. Department of Commerce expressed support for reducing the standard based upon its view that achievement of the 27.5 mpg standard for MY 1986 no longer appears to be economically practicable or technologically feasible. That Department stated that it believes GM and Ford can achieve that standard only by reducing their U.S. product offerings and adjusting their output mix, with economically damaging consequences, including substantial sales losses and employment decline.

Both GM and Ford submitted various additional information in support of their petitions, much of it at the request of the agency. Among other things, GM submitted a legal memorandum arguing that NHTSA should take account of the need to generate carryback credits as part of the determination of maximum feasible fuel economy.

Chrysler, Volkswagen, EPI, the New York State Energy Office, several members of Congress, and various private individuals opposed reducing the MY 1986 fuel economy standard. Both Chrysler and Volkswagen raised concerns as to the equity of changing the 1986 standard at this date, arguing that it is unfair to manufacturers which based their corporate plans on the long-established standard.

Chrysler argued that the GM and Ford petitions were untimely filed with respect to MY 1986, given the procedural steps which it contends the agency must work through and the difficulty and importance of the issues presented. Among other things, Chrysler argued that NHTSA must provide a comment period on any proposed rule of at least 60 and preferably 90 days and must wait until after the comment period to hold public hearings.

Chrysler also contended that the record does not warrant a reduction in the standard for MY 1986. According to that company, the issue is not whether the petitioners are currently capable of meeting the 27.5 mpg standard, but instead whether petitioners did everything possible, within the limits of technological feasibility and economic practicability, to meet the 27.5 mpg standard prescribed by Congress. That commenter stated that since Congress provided nearly 10 years to meet the standard, the "maximum feasible" average is the highest level they could have reached if they had done everything reasonably possible over the course of that entire period.

Chrysler raised a number of specific factual issues which it contends the agency must address. These include why GM and Ford are unable to meet the 27.5 mpg standard when Chrysler, a company with far fewer resources, can; why GM and Ford deferred programs to produce fuel-efficient cars; why the petitioners could not have had new, fuel-efficient vehicles planned for the future ready by MY 1986; why GM elected to close plants that build fuel-efficiency cars; why GM and Ford have elected to retain a number of older, fuel-inefficient rear-wheel-drive models that compete with their own newer front-wheel-drive cars; whether petitioners have done everything they can to influence consumer demand in favor of fuel-efficient cars; and why GM, and to a lesser extent Ford, are increasing their imports of cars that will compete with their own fuel-efficient domestic offerings.

Chrysler also expressed concern that a reduction in the standard for MY 1986, even if coupled with a carefully worded disclaimer about future years, would inevitably deter the petitioners from adopting any expensive new measures to improve fuel economy in 1987 and beyond.

Chrysler requested that NHTSA use its authority to place substantially all relevant material, including material subject to a claim of confidentiality, on the public record. According to that commenter, this is necessary in order to provide the public with a meaningful opportunity to comment.

EPI argued that a reduction in the MY 1986 CAFE standard would sanction the failure of certain automobile companies to comply with the Energy Policy and Conservation Act; exacerbate what it contends is a currently diminished focus on energy conservation in the transportation sector; and increase automobile fuel consumption, thereby promoting U.S. dependence on oil imports. That commenter questioned reducing the standard when it is conceivable that Ford and GM, if seizing the opportunity to advance fuel economy improvements, could earn sufficient carryback credits to avoid having to pay penalties for failure to meet one or more existing standards. EPI argued that the question of a commitment to gain these credits in the

future must be addressed and that industry should be willing to exercise this option or pay the appropriate fines rather than "retreat" from the MY 1985 standard which was established nearly 10 years ago.

The New York State Energy Office argued that reducing the MY 1986 automobile fuel economy standard would result in an "enormous" increase in gasoline consumption, eliminating the gains in fuel economy that have been achieved during recent years.

Agency's Analytical Approach

As discussed above, section 502(a)(4) provides that if NHTSA determines that a level other than 27.5 mpg is the maximum feasible average fuel economy for 1985 or any subsequent model year, the agency may change the standard for that year to that level. If NHTSA were writing on a blank slate and establishing the MY 1986 standard for the first time, it would simply evaluate the average fuel economy levels of the manufacturers and determine what improvements could be made in those levels between now and the end of MY 1986. This would involve taking into account the capabilities of each manufacturer and considering the four factors listed in section 502(e), i.e., technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

The agency agrees with Chrysler, however, that the sole issue is not whether manufacturers are now capable of meeting the 27.5 mpg standard. Since the Cost Savings Act imposed a long-term obligation on manufacturers to achieve a 27.5 mpg fuel economy level, it would be inappropriate to reduce the standard if a current inability to meet the standard simply resulted from manufacturers previously declining to take reasonable steps to improve their average fuel economy as required by the Act. Therefore, the agency must evaluate the manufacturers' effort to achieve higher levels of fuel economy as well as their current capabilities.

On the other hand, the agency does not consider it appropriate to judge manufacturers' efforts by 20–20 hindsight. In assessing the reasonableness of manufacturers' fuel economy efforts, it is necessary to take account of the information available to manufacturers at the time product decisions were being made. Manufacturers had an obligation to take reasonable steps, consistent with the factors of section 502(e), to achieve a fuel economy level of 27.5 mpg. To the extent that manufacturers had reasonable plans to achieve the 27.5 mpg level which subsequently became infeasible due to unforeseen events, NHTSA does not believe the manufacturers should be charged with a failure to act in a reasonable manner.

The agency's analytical approach thus consists of first evaluating the maximum feasible average fuel economy level that manufacturers are now capable of achieving in MY 1986, taking into account the four factors of section 502(e) and second, to the extent that level is determined to be below 27.5 mpg, assessing the reasonableness of manufacturers' fuel economy efforts to meet the 27.5 mpg standard, in light of the information available to manufacturers at the time product decisions were being made and the four factors of section 502(e).

Summary of Agency Analysis

Based on its analysis and in light of the four factors of section 502(e), NHTSA has tentatively concluded that the maximum feasible average fuel economy level for MY 1986 is 26.0 mpg. The agency's analysis indicates that GM and Ford, constituting a substantial part of the industry, have made significant efforts to meet the current standard, and that those efforts have been overtaken by unforeseen events. Based on its analysis, the agency is proposing to reduce the 27.5 mpg CAFE standard for MY 1986 to 26.0 mpg.

Manufacturer Projections for 1986

The starting point in analyzing the GM and Ford petitions for rulemaking is to examine the manufacturers' MY 1986 CAFE projections. While manufacturers have greatly improved their CAFE during the past decade, current projections indicate that the CAFE levels for a number of manufacturers remain below 27.5 mpg.

GM projects its MY 1986 domestic CAFE to be 25.7 mpg,[3] 0.6 mpg higher than the company's projection of 25.1 mpg for MY 1985. This improvement results primarily from a reduction in the average weight of the GM fleet. The weight reduction is due mainly to the introduction of a new front-wheel drive large car (the GM70—replacing the rear-drive Buick LeSabre and Oldsmobile 88 models), the introduction of a lighter mid-size luxury car (the GM30—replacing the E- and K-body models: the Oldsmobile Toronado, Buick Riviera, the Cadillac Eldorado, and the Cadillac Seville) and the introduction of a 4-door version of the GM20 compact. There is an additional fuel economy gain due to the expanded use of 4-speed automatic transmissions. There is also an increase in CAFE because of a slight mix shift toward smaller models. Much of this mix shift is due to an increase in compact sales as a result of the introduction of the 4-door GM20 model, as well as a reduction in the share of GM's mix taken by large car sales.

Several other changes in the characteristics of the GM car fleet have minor, and generally offsetting, effects on the company's projected MY 1986 CAFE. The new models have improved aerodynamics, adding to the company's fuel economy level. This effect is essentially offset by the elimination of diesel engines from all models except the Chevette/1000.

Ford projects its MY 1986 domestic CAFE to be 26.2 mpg, 0.9 mpg higher than the company's projection of 25.3 mpg for MY 1985. The most visible change in Ford's fleet for MY 1986 is the introduction of the Taurus/Sable mid-size model. This new front-wheel drive car is designed to eventually replace the rear-wheel drive LTD/Marquis models. The new model includes new 2.5 liter 4-cylinder and 3.0 liter V–6 engines, as well as a new 4-speed automatic transmission, and is thus more fuel-efficient than the LTD/Marquis.

Between MY 1985 and MY 1986, Ford expects an increase in mid-size car sales as a percentage of its fleet and a decline in the large car and compact car share of its sales. Some of this effect is caused by the timing of the introduction of new models. This effect results in a slight lowering of Ford's CAFE.

Ford expects a slight increase in its average weight for MY 1986. Reasons for this increase include the replacement of the 1.6 liter engine in the Escort-Lynx compacts with a 1.9 liter engine, increased sales of a larger engine in the Mustang/Capri, and the introduction of a new version of an existing vehicle. This impact on Ford's CAFE is a 0.4 mpg decline, which is completely offset by a reduction in average engine size with the introduction of the Taurus/Sable.

Ford intends to introduce a number of technological improvements for MY 1986. These improvements include engine efficiency improvements, reduced aerodynamic drag (primarily due to the introduction of the Taurus/Sable), lower rolling resistance tires on several models, improved calibrations on two engines, and a number of other, relatively minor, changes.

[3] On June 18, 1985, GM submitted a letter indicating that its model year 1986 CAFE projection may change, based on a preliminary staff update of that company's current business plan. The submission was made under a claim of confidentiality, which is being reviewed by NHTSA. The agency will fully consider the submission before reaching a decision concerning a final rule.

Chrysler has projected that its MY 1985 CAFE would be 27.5 mpg and that its 1986 CAFE would be 28.1 mpg. However, subsequent to its statement about MY 1986 CAFE, Chrysler announced that it was changing its product plans because the United States had decided not to request an extension of the Japanese Voluntary Restraint Agreement on car exports to the United States. NHTSA has requested Chrysler to provide data on the effects of those product plan changes on Chrysler's MY 1986 CAFE and is awaiting the data. In the meantime, the agency does not know the specific impact of the changes on Chrysler's projection. However, the agency expects Chrysler's MY 1986 CAFE to be at or above 27.5 mpg.

American Motors, Volkswagen and the major Japanese manufacturers are expected to easily exceed the current 27.5 mpg standard for MY 1986. The fuel economy trend of the Japanese manufacturers has been mixed, however. Honda, Nissan and Isuzu have dropped in corporate fuel economy over the last three years, while Toyota and Mitsubishi have increased. The reason for the drop in fuel economy experienced by some of the Japanese manufacturers has been a mix shift toward larger, more performance-oriented vehicles.

Most of the European manufacturers are expected to be below the 27.5 mpg level for MY 1986. These include BMW, Mercedes-Benz, Peugeot, Saab, Volvo, and Jaguar. Many of these manufacturers' CAFE have also declined within the last three years.

BMW projects a MY 1986 CAFE of 26.1 mpg. While that is above its projected MY 1985 CAFE of 25.6 mpg, it is well below its MY 1984 CAFE of 27.4 mpg. BMW's drop in CAFE has resulted from a mix shift in sales to vehicles with larger engines and greater performance. While BMW has a selection of vehicle models which exceed the standard of 27.5 mpg, sales have shifted toward higher performance vehicles with lower fuel economy.

While the agency does not have a MY 1986 CAFE projection from Mercedes-Benz, that company's fuel economy has dropped approximately three mpg over the last three years. Its 1983, 1984 and projected 1985 CAFE levels have been 26.5 mpg, 25.5 mpg and 23.4 mpg, respectively. The reason for the drop is that consumer demand has shifted sales toward the higher performance end of that company's model line and away from vehicles with diesel engines. The fraction of Mercedes-Benz cars equipped with diesels has fallen from 78 percent in 1983 to an estimated 44 percent in 1985. While Mercedes introduced a smaller model (the 190) with fuel economy of up to 40 mpg in some diesel versions, the sales volumes have not been enough to offset the sales of its larger versions. That company noted in its comment that the pump price of regular unleaded gasoline is currently approximately $1.15 per gallon versus $1.29 for diesel fuel, the opposite of the relative prices in effect when the CAFE legislation was passed and when that company developed its plans to improve its fuel economy.

Volvo projects a MY 1986 CAFE of 26.5 mpg, approximately the same as its projected CAFE for MY 1985. Peugeot projects that its MY 1986 CAFE will be 25.6 mpg, 0.8 mpg higher than its MY 1985 projection of 24.8 mpg. Saab projects that its MY 1986 CAFE will be 25.4 mpg, 0.4 mpg lower than its MY 1985 projection of 25.8 mpg. Jaguar, which produces only large, heavy, luxury class vehicles, projects a MY 1986 CAFE of 19.2 mpg.

The agency has evaluated the manufacturers' MY 1986 CAFE projections and considers them to be reasonable projections based on the vehicles the manufacturers plan to offer for sale and expected market conditions. As with any sales projections, there are a number of uncertainties associated with them. Both GM and Ford indicated a number of marketing risks, including the possibility that Japanese car sales may rise substantially during the 1986 model year, resulting in a corresponding loss in sales of their most fuel efficient cars and a concomitant reduction in their CAFE ability. Ford also identified a number of technological risks associated with achieving their submitted CAFE estimates for MY 1986, which could result in a small reduction in that company's projected CAFE.

Manufacturer Capabilities for 1986

Since the 1986 model year begins this fall, there is insufficient time for the manufacturers to make further significant technological changes in their product plans. Any additional efforts by the manufacturers to increase their MY 1986 CAFE would therefore largely be limited to attempts to change product mixes through increased marketing efforts and/or product restrictions.

The agency has indicated in the past that manufacturers must, under the Act, make efforts to sell fuel-efficient cars. The agency concludes, based on its analysis, that GM and Ford have, in the past been, and are now, making such efforts. To counteract the declining consumer interest in new car fuel economy, manufacturers have undertaken extensive and significant market efforts to shift consumers toward their more fuel-efficient vehicles and options. As discussed in the agency's 1985 preliminary regulatory impact analysis (PRIA), both GM and Ford have undertaken pricing actions to encourage small car sales and to discourage large car sales and that purchase of optional, less fuel-efficient engines. Below-market financing offerings, cash discounts, and non-cash consumer and dealer incentives were some of the other measures undertaken by Ford and GM to increase their CAFE through marketing actions.

In light of these past efforts, the agency believes that there is relatively little remaining capability to improve fuel economy by this technique. An additional factor making it difficult to increase sales of small cars is the strong competition in that market from the Japanese manufacturers, which enjoy a significant cost advantage over the domestic manufacturers. The comment submitted by the Department of Commerce estimated the cost advantage at $2,000 per car. This cost advantage limits the ability of the domestic manufacturers to increase sales of small cars through price reductions. Given these factors, NHTSA does not believe that the manufacturers can significantly improve their CAFE by increased marketing efforts. Further, the agency concludes that Ford and GM made reasonable marketing efforts to improve their CAFE.

Manufacturers could improve their CAFE by restricting their product offerings, i.e., deleting less fuel-efficient car lines or dropping higher performance engines. However, such product restrictions would have significant adverse economic impacts on the industry and the economy as a whole. The Department of Commerce comment estimated that the effect of GM and Ford achieving 27.5 mpg CAFE in MY 1986 could be sales losses ranging from 750 thousand to 1 million units. Based on the labor required for producing large domestic cars, including suppliers, that Department estimated job losses between 80 and 110 thousand. Confidential submissions received from GM and Ford indicated that a much higher number of job losses would be possible. The agency has analyzed these submissions and has tentatively concluded that, while it is difficult to calculate precise numbers for potential sales and employment losses associated with the major manufacturers achieving 27.5 mpg CAFE for MY 1986, there would be a likelihood of sales losses well into the hundreds of thousands of units and job losses well into the tens of thousands. Sales and employment losses

of these magnitudes would have significant adverse effects on the economy as a whole, including GNP. Also, such product restrictions could increase the price of large cars or reduce their availability, and thereby unreasonably limit consumer choices.

In the preamble to the final rule establishing the MY 1981–84 passenger car standards, the agency concluded that economic practicability should be interpreted as requiring standards to be within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry. 42 FR 33537, June 30, 1977. In a final rule reducing the light truck fuel economy standard for MY 1985, the agency concluded that sales reductions to a manufacturer of 100,000 to 180,000 units, with resulting employment losses of 12,000 to 23,000, "go beyond the realm of 'economic practicability' as contemplated in the Act . . . ." 49 FR 41252, October 22, 1984. The agency similarly concludes that the economic hardship associated with the product restrictions necessary for the major manufacturers to achieve 27.5 mpg CAFE in MY 1986 would be beyond the realm of economic parcticability.

Manufacturer Compliance Efforts 1977 to 1985

While there is now insufficient time for manufacturers to improve their MY 1986 CAFE by making significant technological changes in their product plans, the current MY 1986 standard has been in effect for nearly a decade. Therefore, an important issue in analyzing the GM and Ford petitions is whether manufacturers made reasonable efforts to meet the standard. As discussed above, the agency would not consider it appropriate to reduce the standard if a current inability to meet the standard simply resulted only from manufacturers declining to take reasonable steps to improve their average fuel economy as required by the Act. As part of analyzing this issue, NHTSA compared manufacturers' current product plans with past agency analyses which had concluded that the 27.5 mpg standard was feasible. The agency also compared current product plans with earlier plans submitted by the manufacturers indicating that they would meet the standards. As discussed below, the agency believes that GM and Ford made reasonable attempts to comply with the current MY 1986 standard and that the manufacturers' efforts were overtaken by unforeseen events whose effects could not be overcome with the means and time available.

(The discussion which follows first presents the agency's conclusions concerning the differences between the manufacturers' current product plans, i.e., what is not actually happening, and past analyses/plans by NHTSA and the manufacturers as to what was believed feasible, and then presents the agency's conclusions as to why manufacturers' CAFE's are lower than was once expected.)

A. NHTSA's 1977 RSP

As discussed above, as part of establishing the 1981–84 standards, the agency developed estimates of the maximum feasible fuel economy for each manufacturer for model year 1981 through 1985. The estimates were based on a number of assumptions, including the ability of manufacturers to sustain a rapid rate of introduction of technology, consumer acceptance of a 10 percent reduction in vehicle acceleration, and significant use of a widespread range of technological options, including weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory losses, and reduced tire rolling resistance. The agency's estimates did not assume a downward mix shift in automobile sizes or the use of diesel engines.

The agency's 1985 PRIA contains a detailed analysis comparing NHTSA's 1977 feasibility estimates for MY 1985 with manufacturers' current projections for that model year. It should be noted that while the 1977 RSP projected that it was feasible for a number of manufacturers to achieve fuel economy levels somewhat above 27.5 mpg by MY 1985, no standard was ever set above the 27.5 mpg level. Thus, manufacturers were never required to make efforts to achieve the higher (NHTSA-projected) CAFE levels.

The 1977 RSP estimated that GM could achieve 28.9 mpg CAFE for MY 1985. GM currently projects its MY 1985 CAFE at 25.1 mpg. The PRIA concludes that the primary reason why GM's present MY 1985 projection is lower is that the average GM model weighs 359 pounds more than NHTSA projected in 1977. Part of the difference in expected weight is due to changes in EPA test weight classes, which could result in a measured fuel economy loss of 0.3 mpg. The remaining weight difference is 284 pounds, the effect of which, including the fact that a proportionately larger engine is needed to maintain acceleration capabilities, is a 2.0 mpg reduction in average fuel economy from that estimated in 1977.

A number of factors appear to account for this weight difference. In the 1977 RSP, NHTSA concluded that GM could perform both a major redesign and a material substitution action for an additional reduction in weight, for every carline during the MY 1977–85 timeframe. GM made all anticipated major redesigns except in the T-body cars (Chevette and 1000) and, in addition, introduced two additional lightweight models not projected in the 1977 analysis. The redesigns did not, however, achieve the full amount of weight reduction originally projected as feasible, and, in most cases, the material substitution actions did not occur. Also, when GM introduced new models, the company often continued production of the earlier models.

Other factors which explain GM's lower CAFE are a higher than anticipated engine/size ratio (−0.6 mpg), indicating that GM did not reduce acceleration capability by the percentage projected by the 1977 RSP, and fewer 4-speed automatic transmissions (−0.8 mpg). These factors account for the bulk of the remaining differences between GM's present MY 1985 CAFE estimate and NHTSA's 1977 projection.

The 1977 RSP estimated that Ford could achieve 27.9 mpg CAFE for MY 1985. Ford currently projects its MY 1985 CAFE at 25.3. The agency's analysis in the PRIA concludes that a number of factors explain Ford's lower CAFE. The most significant are lack of acceleration capability reduction (−1.1 mpg), higher weight than anticipated (−0.8 mpg), and fewer lockup and wide-ratio automatic transmissions (−0.8 mpg). Additional factors which explain Ford's lower CAFE are the EPA change in test weight class (−0.3 mpg) and a sales mix adjustment (−0.3 mpg). While Ford's CAFE is lower than was projected as feasible back in 1977, the agency concludes, as discussed in the PRIA, that Ford exceeded the agency's projections for improving CAFE in the areas of reduced rolling resistance (+0.4 mpg) and reduced aerodynamic drag (+0.2 mpg). Also, diesel engines added slightly to Ford's CAFE (+0.1 mpg).

The 1977 RSP estimated that Chrysler could achieve 28.7 mpg CAFE for MY 1985. Chrysler currently projects its MY 1985 CAFE at 27.5 mpg. Major changes in product plans by that company from what were anticipated make it difficult to directly compare the agency's 1977 RSP to Chrysler's current projections. An unanticipated shift toward smaller cars in the company's product line-up significantly increased Chrysler's CAFE (+2.2 mpg). This was more than offset, however, by the effect of fewer lock-up and no wide-ratio automatic transmissions (−2.5 mpg). A number of

other items, such as lack of acceleration capability reduction and minor weight increases contribute to the remaining decline in fuel economy.

The PRIA also compares the 1977 RSP feasibility estimates for foreign manufacturers to current projections. On a sales-weighted basis, the foreign manufacturers' vehicle horsepower/weight ratio has increased by an average of 13 percent and vehicle weight has increased by an average of 8.6 percent since 1977, rather than decreasing as believed feasible by NHTSA in 1977. In spite of these changes, the foreign manufacturers have increased their average fleet fuel economy by about 2.5 mpg since 1977, as a result of factors such as improved rolling resistance and aerodynamic drag. However, this is significantly less than the agency had projected as feasible.

B. Manufacturers' Previous Plans

1. 1980

During the summer of 1980, as fuel prices were rising rapidly, GM, Ford and Chrysler all announced that their MY 1985 CAFE levels would be approximately 30 mpg or higher. At NHTSA's request, the companies provided the agency with data to support the projections.

GM expected to achieve 31 mpg in MY 1985 with a completely redesigned line-up of U.S. passenger cars. Included in this product plan were extensive use of diesel engines, the introduction of an electric car, the introduction of a new domestic subcompact front-wheel drive economy car (the S-body, designed to eventually replace the Chevette/1000), the replacement of essentially all GM's existing cars with lighter weight front-wheel-drive models, a mix shift toward smaller models, and the virtual elimination of V-8 engines.

There are a number of differences in GM's 1980 plan for MY 1985 and what actually happened, including a substantial drop in diesel engine sales; the fact that GM did not introduce an electric car or a new domestic subcompact economy car, a slowdown in the rate of replacing existing cars with lighter weight front-wheel-drive models, a sales shift toward larger models and engines, and the continuation of many existing lines.

In the summer of 1980, Ford projected that it could achieve a fuel economy level as high as 29.9 mpg in MY 1985. Included in that product plan was the complete elimination of large cars and large station wagons by MY 1985. Instead, large car sales are now projected to comprise approximately a fifth of Ford's MY 1985 volume. Other differences between Ford's 1980 plan for MY 1985 and what actually happened include delay in introducing the new front-wheel-drive Taurus mid-size car (to MY 1986), continuation of V-8 engines in a significant portion of the vehicle fleet instead of eliminating them, lower-than-expected diesel sales, and substantially fewer sales of Ford's most fuel-efficient model, the two-seater EXP.

In 1980, Chrysler expected to achieve CAFE of 30.7 mpg in MY 1985, well above that company's current projection of 27.5 mpg. A number of the car models in that plan have not been introduced. In addition, Chrysler projected it would replace the rear-wheel-drive, relatively heavy M-body (presently the Diplomat, Gran Fury, and Fifth Avenue) with versions of the front-wheel-drive K-body. Instead, Chrysler continued to offer this model after its ostensible replacements were introduced. The older-design M-body has an average fuel economy about 6 mpg below the equivalent front-wheel-drive models. Chrysler also planned a number of technological improvements that have not been introduced.

2. 1983

By mid-1983, GM's and Ford's expectations about exceeding the fuel economy standards had reversed. By this time, the manufacturers were having difficulty meeting the levels of the fuel economy standards. GM, Ford and Chrysler, as well as many other companies, had experienced a decline in their CAFE levels between MY 1982 and MY 1983. At NHTSA's request, the manufacturers provided the agency with data indicating their projected fuel economy levels through MY 1988.

GM's and Ford's mid-1983 projections for MY 1985 were not substantially different from what they are today. GM projected a CAFE of 25.9 mpg for MY 1985, as compared to its current projection of 25.1 mpg. In 1983, that company projected a sales mix with a slightly lower average weight and a greater number of diesel sales. Ford's 1983 projection was almost identical to its current projection. That company's 1983 projection included fewer large cars and station wagons in its MY 1985 fleet. However, this negative impact was offset by an increase in average fuel efficiency of the compact class due primarily to increases in projected Escort/Lynx sales and decreases in Thunderbird/Cougar sales.

Chrysler projected in 1983 that it could achieve 28.8 mpg in MY 1985, 1.3 mpg above its current estimate. In 1983 Chrysler did not provide the agency with as detailed product plans for MY 1985 as did GM and Ford. Based on the limited data, it appears that Chrysler's least fuel-efficient models are now selling at higher rates than the company anticipated in 1983. In addition, the average fuel economy level for each carline is lower than anticipated. This appears to indicate a mix shift toward larger and more powerful engines within each carline, similar to the mix shift experienced by Ford and GM.

3. 1984–1985

Product plan information provided to NHTSA within approximately the past year by both GM and Ford indicates that those company's CAFE projections for *MY 1986* have declined within that time frame.

The most significant changes have been for Ford. A carryback plan submitted by that company on May 7, 1984, indicated that Ford then expected to exceed the 27.5 mpg standard in MY 1986. A carryback plan submitted on December 7, 1984, projected significantly lower CAFE for MY 1986, reflecting a product plan change by that company. Ford's February 28, 1985, response to a NHTSA questionnaire on post-1985 fuel economy and an April 19, 1985, submission discussing the effects of changes in the Voluntary Restraint Agreement (VRA) with Japan both included slight additional declines in projected CAFE for MY 1986.

The PRIA includes an analysis of the changes in Ford's CAFE projections. Ford explained the reductions by citing changes in mix and model start-up schedules and the fact that new models had resulted in less fuel economy improvement than expected. The agency's analysis is largely in agreement with Ford's explanation, although it concludes that an additional factor appears to be that Ford is not achieving the engine or transmission efficiencies it expected for certain of its cars.

A carryback plan submitted by GM on November 27, 1984, projected slightly higher CAFE for MY 1986 than it currently projects. The agency concludes, as discussed in the PRIA, that the change represents an aggregation of changes in the GM fleet in which the fuel economies and market share of several models change slightly. Overall, the changes are small and largely compensatory.

C. Assessment of Manufacturers' Compliance Efforts

Assessing manufacturers' efforts to meet the 27.5 mpg standard is a difficult and complex task. With 20–20 hindsight, one can point to various actions that manufacturers might have been able to take at different points over the past

decade, e.g., increased use of material substitution, that would have improved their current fuel economy capability for MY 1986. The manufacturers, however, had to make their product plan decisions based on the information then available and often in the face of considerable economic difficulty.

In looking back over the past decade, the manufacturers' progress in improving fuel economy has been impressive. In evaluating technological feasibility, the agency considers the commercial availablity of technology to aid in meeting a standard for a particular model year. The amount of CAFE improvements gained by a manufacturer from using new technology is dependent on: (1) The increase in fuel economy associated with a particular type of technology, and (2) the percent of a manufacturer's fleet which incorporates that technology. Technology-based improvements include such items as weight reduction via downsizing or material substitution, engine and transmission improvements, reduced performance (e.g., acceleration capability), reductions in rolling resistance and aerodynamic drag, improved lubricants, and increased accessory efficiency, among others.

Over the past 10 years, manufacturers have reduced average car weight by 1000 pounds, reduced average engine displacement from 288 CID to 177 CID, increased the use of front-wheel drive from seven percent to 64 percent, increased the use of transmissions with overdrive and/or lockup from five to 84 percent, and increased the use of fuel-injected engines from five percent to 54 percent.

The agency notes that some major investments made by manufacturers to improve fuel economy were not successful. For example, both GM and Ford made major investments in diesel engines. Largely due to market conditions, however, including lower-than-expected gasoline prices and a change in the relative price of gasoline and diesel fuel, sales of passenger cars with diesel engines have virtually collapsed. Various efforts by the manufacturers to develop new technologies, such as Ford's experience with the PROCO engine, were unsuccessful. Given the massive undertaking by the industry to virtually double its CAFE in a relatively short period of time, it is not surprising that there would be failures as well as successes. In assessing the manufacturers' efforts to improve their CAFE's, however, the agency believes it is appropriate to take account of all of the efforts.

Manufacturers have used virtually all the technologies deemed feasible in the the agency's 1977 RSP, as well as achieving a number of gains in areas not foreseen at that time. However, not all of those technologies have been installed in as high a percentage of cars in the manufacturers' fleets as was believed feasible. This is particularly true for weight reduction, performance reduction, and transmission improvements.

The agency believes that the lower than anticipated use of these three technologies is largely attributable to market conditions. The consumer acceptability of lower performance, for example, is relatively easy to achieve in times of short fuel supply and steadily rising prices. However, the real price of gasoline has declined by nearly 20 cents per gallon since the early 1980's, is generally expected to rise less than four percent over the next five years, and there is currently a petroleum glut, which results in the public perception of no foreseable energy shortage. Thus, as discussed in the PRIA, the anticipated performance reductions were achieved as early as 1982, but since that time consumers have been demanding greater engine/vehicle performance. Similarly, consumers have been switching to heavier vehicles over the last few years. And finally, making transmission improvements in certain small cars would have further exacerbated the already serious production cost differential between Japanese and domestic subcompacts.

As discussed above, the Cost Savings Act imposed a long-term obligation on manufacturers to make reasonable efforts to achieve CAFE of 27.5 mpg. As of mid-1980, GM and Ford had plans which they believed would not only achieve that level but significantly exceed it. Moreover, during the early 1980's, manufacturers not only met the standards set at levels intended to result in steady progress toward 27.5 mpg, but in fact exceeded those standards.

By 1983, however, domestic manufacturers were having difficulty meeting the levels of fuel economy standards. Consumer demand was shifting toward larger, more comfortable cars with better performance. The nation (and the auto industry in particular) was coming out of a serious economic recession, and, contrary to prior NHTSA and industry expectations, gasoline prices were falling instead of rising. The U.S. city average retail price for unleaded regular gasoline fell from $1.38 in 1981 to $1.30 in 1982 and $1.24 in 1983. (*Monthly Energy Review*, Energy Information Administration,[4] U.S. Department of Energy, January 1984, p. 88) (In 1984 dollars, this decrease was from $1.58 in 1981 to $1.40 in 1982 and $1.29 in 1983.) When fuel prices are high, consumers tend to demand more fuel-efficient vehicles in the marketplace. The rise in gasoline prices since 1973 was a factor in the tremendous increase in fuel efficiency that has been achieved since Congress passed the Energy Policy and Conservation Act. Conversely, when prices fall, it becomes more difficult for manufacturers to meet CAFE standards.

The effect of consumer demand on CAFE is reflected both by actual market shifts and by expected market shifts which did not occur. The percent of total new car sales consisting of subcompact models declined from 46 percent in model year 1980 to 30 percent in model year 1983. Since then, the share appears to be leveling off at approximately 26 percent. For GM, the percent of sales of subcompacts (including two-seaters) declined from 27 percent in model year 1980 to 11 percent in model year 1983. For model year 1985, GM projects an 11 percent share for subcompacts (including two-seaters). Seventeen percent of GM's model year 1980 sales were large cars, as compared to 27 percent for model year 1983 and a projection of 27 percent for model year 1985. For Ford, the percent of sales of subcompacts (including minicompacts) declined from 37 percent for model year 1980 to 12 percent for model year 1983. For model year 1985, Ford projects a 9 percent share for subcompacts (including two-seaters). Sixteen percent of Ford's model year 1980 sales were large cars, as compared to 21 percent for model year 1983 and a projection of 22 percent for model year 1985. For Chrysler, the percent of sales of subcompacts declined from 41 percent in model year 1980 to 12 percent in model year 1983. For model year 1985, Chrysler projects a 20 percent share for subcompacts. Eight percent of Chrysler's model year 1980 sales were large cars. That company stopped producing large cars after model year 1981.

In addition to these actual market shifts are expected market shifts which did not occur. For example, as indicated above, Ford anticipated in 1980 that it could virtually eliminate large cars by 1985, as compared to its current projection that large cars will comprise 22 percent of its sales. Ford's most fuel-

[4] The Energy Information Administration is a statistical and analytical branch of the Federal Government that is policy independent of the Department of Energy.

efficient model, the two-seater EXP, was projected in 1980 to capture over 12 percent of model year 1985 sales. Ford now expects it will take less than two percent of sales. Similarly, GM anticipated in 1980 that the large car share of its model year 1985 sales would be 17 percent, well below its current projection of 27 percent. GM expected its subcompact share to be 18 percent, as compared to its current projection of 11 percent (including two-seaters). The manufacturers' 1980 expectations were overtaken by events as gasoline prices began to fall, instead of rising significantly as expected.

MY 1985 projections provided by the manufacturers during the summer of 1983 indicate that they recognized at that time they would not be able to achieve 27.5 mpg CAFE for MY 1985, although they apparently believed they would have sufficient carryforward and carryback credits available to avoid non-compliance with the Cost Savings Act. Given that the manufacturers recognized difficulties in achieving 27.5 mpg as early as 1983 (as opposed to their earlier expectations of significantly exceeding that level), the issue arises whether manufacturers could or should have done more between then and now to improve their CAFE.

The agency believes several factors are relevant in analyzing that issue. First, the domestic industry was just beginning to recover from one of the worst periods of economic difficulty in its history. From a picture of high profitability in the late 1970's, their fortunes had declined such that they encountered their largest losses ever during the 1980–82 period. During those three years, GM, Ford, and Chrysler had combined operating losses of $4.8 billion. Chrysler staved off bankruptcy through corporate restructuring and with the help of Federal loan guarantees, while Ford alone incurred $3.3 billion in losses over that three-year period.

At the same time, the companies were involved in massive efforts to restructure their operations and redesign their fleets. Even though they were incurring operating losses and inflation was high in the early 1980's, Ford and GM continued or accelerated their capital investment levels, compared to earlier years. For example, GM's highest two years of actual capital expenditures occurred during 1980–81. Long-term debt greatly increased for GM and Ford during this period, as they could not raise the money they needed for capital expenditures from operations.

Given this backdrop of events, it would have been very difficult for GM and Ford to initiate significant further new programs to improve their model year 1986 fuel economy. The companies were heavily in debt, and limited corporate funds were available for new programs. The agency has long recognized that the ability to generate the funds necessary to make fuel economy improvements is a critical factor in assessing economic practicability and determining maximum feasible average fuel economy. As discussed in the background section of this preamble, NHTSA recognized in its January 1979 Third Annual Report that its feasibility estimates were dependent on the continued financial health of the industry and could be subject to change in the event of a severe economic downturn.

Second, it was generally expected that the drop in gasoline prices during the early 1980's was temporary and would quickly reverse. For example, the Summer 1983 Data Resources, Inc. (DRI) U.S. Long-Term Review projected that the percent change in the personal consumption deflator for gasoline would be −3.9 for 1983 but 3.9, 6.6, and 8.6 or 7.7 (reflecting two types of forecasts) for 1984, 1985 and 1986, respectively. Had gasoline prices begun to rise again, consumer demand would have tended to shift back toward more fuel-efficient vehicles, and as a result the manufacturers would generally have had higher CAFE's. Instead of turning positive in 1984, however, the personal consumption deflator for gasoline was −1.6 percent. Moreover, the Spring 1985 DRI U.S. Long-Term Review forecasts that indicator will remain negative for both 1985 and 1986, at −1.8 percent and −0.8 percent, respectively. This continued decline (in real terms) of gasoline prices has resulted in relatively less consumer demand for small cars with high fuel efficiency levels than would otherwise have been expected.[5] The virtual collapse in sales of diesel fuel automobiles illustrates this effect.

Third, the manufacturers' projections in recent years indicate that they believed they would still comply with the law for model years 1985 and 1986, using carryforward/carryback credits as permitted by the Cost Savings Act. Indeed, later submissions by both Ford and GM, most notably the carryback plans, indicate that they did not recognize a CAFE compliance problem until approximately the time they submitted their petitions. By that time, it was too late for the manufacturers to make further significant technological changes in their product plans for MY 1986.

Chrysler has raised the issue of the reasonableness of GM and Ford changing their product plans in a variety of ways over the past few years with the effect of decreasing their projected CAFE's. That company cited decisions by those companies to continued selling larger models and engines that had been planned to be cancelled and the continuation of rear-wheel drive models after front-wheel drive "replacements" had been introduced.

The agency notes that Chrysler stated that it "agrees that consumers have indicated a preference for better performance in recent years . . .." and that it in fact has done some of the same things. It is that company's contention, however, that "what is permissible for Chrysler, who meets the 27.5 mpg standard, should be considered excessive for GM, who does not."

NHTSA cannot agree that product plan changes that decrease CAFE are *per se* "excessive" for companies which are having difficulty meeting the CAFE standards. Given that consumer demand is a major determinant of what it is economically practicable for manufacturers to sell, since consumers need not buy what they do not want, it is axiomatic that a change in consumer demand (all other things held constant) will change what is economically practicable for manufacturers to sell. The fact that GM and Ford once believed they could delete certain models or engines without significant adverse economic impacts does not mean that they would be able to do so after conditions have changed.

As discussed above, Congress did not cast the 27.5 mpg standard in stone but instead provided flexibility to adjust the standard based on up-to-date information, subject to the requirement that the standard be set at the maximum feasible average fuel economy level. Holding manufacturers to product plans which are no longer consistent with current market conditions would have the same result as requiring product restrictions. As discussed above, the types of product restrictions that would be required to significantly improve GM's and Ford's CAFE's would result in serious harm to the industry and the economy as a whole.

While the agency believes that product plan changes such as those discussed above are consistent with statutory criteria, since they reflect changes in what is economically practicable, manufacturers continue to have an obligation to make all efforts consistent with those statutory criteria

[5] The decline in gasoline prices has been occurring while prices in general have been rising. For example, the 1984 change in the implicit GNP Deflator was 3.8 percent. DRI forecasts increases of 3.4 and 3.3 percent for 1985 and 1986.

to meet CAFE standards. To the extent that changes in product plans result in manufacturers falling below the standard for any given year, the manufacturers must pursue other means, such as additional technological improvements, to achieve that standard. As discussed above, however, by the time GM and Ford recognized that economic forces had created a compliance problem, it was too late to make further significant technological changes to improve their CAFE's for MY 1986.

Another issue raised by Chrysler is why GM and Ford are unable to meet the 27.5 mpg standard when it, a company with far fewer resources, can. As noted above, the legislative history indicates that Congress did not intend to unduly limit consumer choice as to capacity and performance of motor vehicles. Unlike GM and Ford, Chrysler does not offer any vehicles which are defined by EPA as "large cars" or "large station wagons." These vehicles, which account for 10–25 percent of Ford's and GM's sales, are less fuel-efficient than the cars Chrysler sells. The primary reason GM's and Ford's CAFE's are lower than Chrysler's is that Chrysler does not complete in all the market segments in which GM and Ford sell cars. The agency believes that GM's and Ford's decisions to continue selling large cars are fully consistent with the statutory criteria. Moreover, Chrysler's fuel economy is not significantly different from that of GM or Ford for the market segments in which it does compete.

The agency tentatively concludes that the manufacturers did make reasonable efforts to improve their fuel economy and that those efforts were overtaken by unforeseen events whose effects could not be overcome by technological means within the time available.

Other Federal Standards

On July 1, 1985, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** (50 FR 27172) to provide CAFE adjustments to compensate for the effects of past test procedure changes. The final rule adopted a formula approach for calculating CAFE adjustments for the 1986 model year.

Manufacturers had argued that changes in EPA test procedures had adversely affected their CAFE values. On December 21, 1983, EPA published a proposal to give a 0.2 mpg credit to all passenger car manufacturers to account for test procedure changes regarding inertia weights, dynamometer controllers, actual distance versus nominal distance traveled in the test, and humidity level. In August 1984, GM requested additional CAFE credit to compensate for changes over time in the properties of test fuels used by EPA and the industry. GM argued that the test fuel adjustment should be an additional 0.02 mpg to 0.32 mpg fuel economy credit, with the value varying by model year. On December 7, 1984, EPA published a supplemental notice requesting comment on the test fuel issue.

Because EPA had issued its proposals prior to this agency's receipt of the GM and Ford petitions, NHTSA considered the effect of the EPA rulemaking throughout its analysis of those petitions. Due to the formula approach adopted by EPA, that agency is currently unable to provide precise calculations concerning how the rule will affect each manufacturer. EPA staff informed NHTSA that they expected GM and Ford to receive credits for the 1986 model year of approximately 0.2 mpg. GM and Ford informed NHTSA that they expected to receive credits of 0.2 mpg and 0.1 mpg, respectively. While the agency does not have specific data concerning how the credits will affect other manufacturers, it believes that the credits will be similar to those for GM and Ford. The EPA final rule will thus raise the manufacturers' projected CAFE for model year 1986 by approximately 0.1 to 0.2 mpg.

(It should be noted that some but not all of the manufacturers' projections provided to NHTSA prior to the EPA final rule included CAFE adjustments based on EPA's proposals. For purposes of consistency, however, none of the manufacturers' projections set forth above include the CAFE adjustment. This is true for both the model year 1986 projections and the projections for model year 1985. The EPA final rule generally provided somewhat higher CAFE adjustments for model year 1985 than for model year 1986.)

As discussed in the PRIA, changes in other Federal standards which may affect CAFE have been made in safety and damageability requirements. These include the May 1982 amendment to the Part 581 Bumper Standard, which permits weight savings; several amendments to the agency's lighting standard, which permit greater aerodynamic efficiency; and the fact that the automatic restraint requirement of Standard No. 208, with its attendant weight penalty, is not in effect for MY 1986, as earlier anticipated. The potential weight savings permitted by the change in the Bumper Standard could improve CAFE by approximately 0.15 to 0.4 mpg. The agency concluded, however, that continued consumer demand for 5 mph bumpers did not permit the manufacturers to avail themselves of much of those potential weight savings. The net effect of the safety changes was to increase the CAFE capabilities of the manufacturers by approximately 0.3 mpg.

The Need To Conserve Energy

Since 1975, when the Energy Policy and Conservation Act was passed, this nation's energy situation has undergone a great deal of change. In particular, oil markets have been deregulated and the Strategic Petroleum Reserve (SPR) has been established. These changes have raised questions about which means of energy conservation are most economically efficient. The agency invites comments on whether and, if so, how these changes should affect the determination of passenger car CAFE standards under the statute.

The United States imported 15 percent of its oil needs in 1955. By 1977, the import share was 46.4 percent and the value of imported crude oil and refined petroleum products was $67 billion (stated as 1984 dollars). While the import share of total petroleum demand declined after that year, the cost continued to rise to a 1980 peak level of $93.2 billion (1984 dollars). By 1984, the import share had declined to 30.9 percent at a cost of $54.2 billion. Thus, the concern over dependence on imported petroleum, as measured by these indicators, has lessened in the past several years.

Moreover, imports from OPEC sources have been declining, from a high of 6.2 million barrels per day and 70.3 percent of all imports in 1977 to 2.0 million barrels per day and 37.6 percent of imports in 1984. Imports from non-OPEC sources have risen slightly from a low of 2.2 million barrels per day or 30.7 percent in 1976, to 3.4 million barrels per day or 62.4 percent in 1984. In 1984, Mexico supplied the U.S. with the largest amount of crude oil and petroleum products, followed by Canada. As imports have shifted to non-OPEC sources, the United States' supply of petroleum has become less vulnerable to the political instabilities of some OPEC countries, as compared to the situation in the mid-1970's.

Overall, the nation is much more energy independent than it was a decade ago, when Congress established the MY 1985 and thereafter standard. From 1975 to 1984, energy efficiency in the economy improved by 21 percent. (*1984 Annual Energy Review*, Energy Information Administration, U.S. Department of Energy, p. 47) Passenger car petroleum consumption is actually lower than it was in 1975, even though travel has increased 25 percent since

then. Domestic oil production is higher than it was in 1975, total imports have dropped 20 percent since then, the value of the nation's imported oil bill has declined nearly 40 percent in the last five years (on a net import basis the value of the nation's imported oil bill fell nearly 45 percent from 1980 to 1984), and the amount of imported oil from OPEC has dropped by 67 percent since the peak of 1977. As a percentage share of GNP, the net oil import bill fell from 2.8 percent in 1980 to 1.5 percent in 1984. In addition, the price of oil is now fully decontrolled, permitting the market to adjust quickly to changing conditions, and the Strategic Petroleum Reserve is well on its way to being filled. The 451 million barrels in the SPR at year-end 1984 were equal to 141 days or 38.6 percent of non-SPR crude oil imports that year. Thus, by any measure, the nation is in a stronger energy position than it was a decade ago.

According to Energy Information Administration (EIA) and Data Resources, Inc., projections, however, domestic production is expected to decline from a stable level of 10 MMB/D to about 8.5 MMB/D by 1995. Net imports are expected to rise from 4.5 to 5 MMB/D to about 7.5 (EIA) to 9.0 (DRI) MMB/D by 1995. This would result in imports approaching 50 percent of U.S. petroleum use by 1995. However, future projections about petroleum imports are subject to great uncertainty and may be overtaken by new domestic discoveries Indeed, oil imports are very difficult to project beyond a year or two. For example, the EIA's *1977 Annual Report to Congress* projected that net oil imports by the U.S. would, in the "reference case," reach 11 million barrels per day by 1985. Net imports for this year are now forecast to be less than 4.5 million barrels per day, substantially less than half the level predicted in 1977. The agency believes that energy conservation is important but also notes that even with a reduction in the standard MY 1986 passenger cars meeting a 26.0 mpg standard will be considerably more fuel-efficient than the nation's overall vehicle fleet and will thus make a substantial positive contribution to the goal of petroleum conservation.

Determining the 1986 Maximum Feasible Average Fuel Economy Level

As discussed above, section 502(a)(4) provides that the 27.5 mpg standard can be raised or lowered for MY 1985 or any subsequent model year if the agency determines that some other standard represents the maximum feasible average fuel economy level. In making this determination, the agency must consider the four factors of section 502(e): technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

Based on dictionary definitions and judicial interpretations of similar language in other statutes, the terms "feasible" and "practicable" refer to whether something is capable of being done.[6] A standard set at the maximum feasible average fuel economy level must thus (1) be capable of being done and (2) be at the highest level that is capable of being done, taking account of what manufacturers are able to do in light of available technology, economic practicability, how other Federal motor vehicle standards effect average fuel economy level, and the need of the nation to conserve energy.

The Conference Report to the 1975 Act (S. Rep. No. 94–516, 94th Cong., 1st Sess. 154–5 (1975)) states:

> Such determination should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. . . .

This language of the Conference Report indicates that standards may at times be set at a level above that of the least capable manufacturer and that some manufacturers may find it necessary to pay penalties. The issue arises of how (and whether) this language should be reconciled with the statutory text indicating that standards must be set at a level that is capable of being done. As a matter of construction, statutory language is controlling over legislative history. Legislative history, however, should be used as an indication of congressional intent in resolving ambiguities in a statutory language. The agency believes that the above-quoted language of the Conference Report provides guidance on the meaning of "maximum feasible average fuel economy level."

It is clear from the Conference Report that Congress did not intend that standards simply be set at the level of the least capable manufacturer. Rather, NHTSA must take industrywide considerations into account in determining the maximum feasible average fuel economy level. The focus, thus, must be on the manufacturers' collective ability to meet a standard, rather than any particular manufacturer's ability to meet it.

With respect to light truck standards, NHTSA has consistently taken the position that it has a responsibility to set standards at a level that can be achieved by manufacturers of a substantial share of sales. See 49 FR 41251, October 22, 1984. The agency believes this same criterion is relevant to the setting of passenger car standards, as part of taking industrywide considerations into account. Given the substantial share (more than 60 percent) of sales by GM and Ford, the agency believes that a standard set at a level above the maximum feasible capability of these manufacturers would by definition not be at the maximum feasible average fuel economy level for the industry, i.e., such standard would exceed that level.

The least capable manufacturers with major shares of the market are GM and Ford. Taking account of the EPA test adjustment credit, GM projects its MY 1986 CAFE at 25.9 mpg, and Ford projects its MY 1986 CAFE at 26.3 mpg. In the section of this preamble entitled "Manufacturer Capabilities for 1986," the agency made several tentative conclusions concerning the manufacturers' abilities to improve their projected CAFE levels. First, given the imminence of the 1986 model year, there is insufficient time now for the manufacturers to make further significant technological changes to their product plans. Therefore, any additional efforts by the manufacturers to increase their MY 1986 CAFE would largely be limited to attempts to change product mixes through increased marketing efforts and/or product restrictions. Second, based on past experience and current competitive conditions, NHTSA tentatively concludes that GM and Ford cannot significantly improve their CAFE's by increased marketing efforts. Third, the types of product restrictions that would be required for GM and Ford to significantly improve their CAFE's could

[6] The *Random House Dictionary of the English Language* (unabridged edition) defines "feasible" as "capable of being done, effected, or accomplished." It defines "practicable" as "capable of being done, effected, or put into practice, with the available means; feasible. . . ." In *American Textile Mfrs. Institute Inc. v. Donovan*, 452 U.S. 490 (1981), the Supreme Court interpreted use of the word "feasible" in a similar statutory context to mean "capable of being done."

result in significant adverse economic impacts and restrict consumer choice to an unreasonable degree. The unacceptability of the resulting product mix to a significant segment of the consuming public would likely result in MY 1986 sales losses well into the hundreds of thousands of units and job losses well into the tens of thousands. The agency considers these effects to be beyond the realm of economic practicability.

While the agency believes that that energy conservation is important, it cannot conclude that the possible energy savings associated with maintaining the 27.5 mpg standard for MY 1986 would justify the major economic hardships discussed above. The magnitude of possible energy savings is uncertain. If manufacturers restricted the availability of their large cars, consumers might tend to keep their older, less fuel-efficient large cars in service longer or purchase large pickup trucks and vans to obtain the room, power and load-carrying capacity they desire. This could offset in whole or part the apparent energy savings associated with higher passenger car CAFE.

The agency's PRIA indicates that the *maximum* magnitude of any increase in fuel consumption associated with a 26.0 mpg CAFE standard would be 1.54 billion gallons (37 million barrels) over the life of the MY 1986 fleet. The maximum yearly impact on U.S. gasoline consumption would be 210 million gallons, or roughly 0.3 percent of total annual automobile gasoline consumption. In terms of total U.S. petroleum consumption, it would amount to a maximum yearly increase of 0.09 percent. While the agency does not view these figures as insignificant, it does not believe that such savings would justify sales losses to the industry in the hundreds of thousands, job losses in the tens of thousands, or the unreasonable restriction of consumer choices.

The changes in Federal safety and damageability standards discussed above provided some additional flexibility in improving CAFE. However, as discussed above with respect to possible technological changes, the imminence of the 1986 model year precludes significant changes in product designs.

Taking account of the four factors of section 502(e), the agency tentatively determines that the maximum feasible average fuel economy level for MY 1986 is 26.0 mpg. This level would be at the maximum capability of GM, the least capable manufacturer with a major share of the market. As discussed above, the agency believes it has a responsibility to set standards at a level that can be achieved by such a major manufacturer. Based on its analysis discussed above, the agency believes 26.0 mpg is the highest standard GM can achieve for MY 1986, particularly since a standard at that level does not provide any margin for market risks. As discussed above, GM's projected CAFE is subject to marketing risks, including the possibility that Japanese car sales may rise substantially during the 1986 model year, resulting in a corresponding loss in sales of GM's most fuel-efficient cars and a concomitant reduction in its CAFE capability. Efforts by GM to exceed 26.0 mpg CAFE could necessitate significant product restrictions and could result in the serious economic harms discussed above. Furthermore, since the agency's ability to predict the future is necessarily imperfect, any standard is not without risk.

A 26.0 mpg standard would permit some slight allowance to Ford for technological and market risks. Given Ford's previous inability to meet the level of prior year standards, the agency believes that Ford will have strong incentives to achieve the highest CAFE possible in order to earn credits.

With the exception of Jaguar, Mercedes-Benz, and possibly Saab, the agency believes the rest of the industry is capable of meeting the 26.0 mpg standard, although compliance may be close for some of the European manufacturers. NHTSA has concern about setting standards that one or more manufacturers cannot meet, particularly since some of the manufacturers have made great improvements in their fuel economy. As discussed above, however, the Act requires the agency to take industrywide considerations into account in determining the maximum feasible average fuel economy level. A standard set at the level of the least capable European manufacturer would be so far below that of the industry as a whole that it would remove any effect the CAFE program has on improving fuel economy. The agency notes that each of the manufacturers in question has chosen to concentrate on a segment of the market that tends toward lower fuel economy.

In this and other rulemakings, commenters have raised the issue of whether and how penalties and carryforward/carryback credits should be taken into account in setting standards at the maximum feasible average fuel economy level. It is NHTSA's conclusion that the Act generally requires standards to be set without regard to penalties or carryforward/carryback credits. The agency's analysis of this issue is contained in the PRIA.

Competitive Effects; Equity

Chrysler contends that amending the standard to 26.0 mpg "would discriminate against, and place at a competitive disadvantage, those manufacturers like Chrysler, who have made the investment imposed ten years ago." This position was echoed by Volkswagen, which argued that lowering the standard "would be unfair to a manufacturer which relied on the long established standard in formulating its corporate plan for 1986."

The agency recognizes the equity issues involved in revising fuel economy standards. However, the agency must consider the feasibility of its standards for the industry as a whole, as discussed above, in accordance with the four factors provided by section 502(e) of the Act. Indeed, since the Act specifically permits the revision of previously set fuel economy standards, it necessarily contemplates the possibility of different impacts on different manufacturers. The agency notes that the MY 1981 light truck standard was lowered in response to a petition for rulemaking submitted by Chrysler. Thus, that company has requested and received the primary benefit from the same type of rulemaking action to which it now objects.

Comment Period; Timeliness of Petitions

The agency is providing a comment period of 30 days. In its March 1985 notice granting the GM and Ford petitions and requesting comments on those petitions, NHTSA stated that it was focusing its attention on the 1986 model year in view of the possibility of serious economic harm cited by the petitioners and the limited remaining time for amending the 1986 standard. As discussed by the agency in a previous **Federal Register** notice, amendments reducing a standard for a particular model year may be made until the beginning of the model year, but not after that time. See 49 FR 41250, 41254–5 (October 22, 1984). In its March 1985 notice, the agency noted that since model years begin in the fall, a final rule reducing the 1986 standard would have to be issued by this fall. The agency also noted that "(t)he nearness of that deadline would necessitate that each phase of the rulemaking, including the period for commenting on a proposal, be shortened so that the rulemaking could be completed in a timely fashion." 50 FR 12344 (March 28, 1985).

Chrysler argued that the GM and Ford petitions for rulemaking were untimely

filed with respect to model year 1986, given the procedural steps which it contends the agency must work through and the difficulty and importance of the issues presented. Chrysler argued that NHTSA must provide a comment period on any proposed rule of at least 60 and preferably 90 days and must wait until after the comment period to hold public hearings, in order to provide a meaningful opportunity for public comment.

NHTSA disagrees. The agency addressed the issue of the timing of petitions to reduce fuel economy standards in a notice published in the **Federal Register** (49 FR 41250, 55–56) on October 22, 1984. Noting that amendments reducing a fuel economy standard for a particular model year must be promulgated prior to the start of the model year, the agency concluded that "(a)s a general matter, petitions regarding a particular model year's standards should be submitted no later than the early part of the preceding calendar year, and preferably before that time." The GM and Ford petitions were filed on March 1, 1985, which is in the early part of the calendar year preceding model year 1986. Thus, the timing of the petitions within agency guidelines.

The agency agrees with Chrysler concerning the importance of the issues presented. It is precisely because of the importance of the issues, which concern possible serious economic harm to GM and Ford and the economy as a whole, coupled with the nearness of the deadline for amending the 1986 model year standard, that the agency finds good cause for a shortened comment period. NHTSA does not agree with Chrysler that either a 60- or 90-day comment period is required, or that the public meetings need to be held after the close of the comment period. The statute does not establish a specific minimum notice period. Accordingly, the agency has established a reasonable comment period, based on the circumstances. The agency believes that the procedural steps previously followed by the agency and those adopted here provide a full opportunity for meaningful participation by the public. The agency notes that the public was given advance notice in the March 28, 1985, **Federal Register** publication of a possible shortened comment period and the opportunity to comment on the issues raised by the petitions in advance of NHTSA's decision whether to issue an NPRM.

Disclosure of Confidential Information

Chrysler requested that NHTSA release confidential information filed by GM and Ford concerning their petitions, arguing that the public needs such information in order to have a meaningful opportunity for comment. The agency contacted GM and Ford and other manufacturers and obtained revocations of claims of confidentiality for a considerable amount of information relevant to the issues of this rulemaking. The agency believes that the information available to the public ensures a full and meaningful opportunity for comment.

Public Meeting

A public meeting will be held on August 8–9, 1985, in Washington, D.C., at the time and place specified near the beginning of this notice. The agency invites interested members of the public to participate in this meeting and to comment on the full range of issues raised by this proposal.

No opportunity will be afforded the public to directly question participants in the meetings. However, the public may submit written questions to the presiding panel of Federal officials for the panel to consider asking of particular participants. The presiding officials reserve the right to ask questions of all persons making oral presentations.

Persons wishing to make oral presentations at the public hearing should contact Ms. Viola Walsh (whose address and telephone number are provided near the beginning of this notice) by July 29, so that time limitations (if necessary) and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. A general outline of each planned oral presentation should also be submitted to Ms. Walsh by August 5. Persons whose presentations will include slides, motion pictures, or other visual aids should submit copies of them for the record at the meeting. Oral presentations will be limited to between five and 15 minutes, depending upon the number of witnesses. If the number of requests for oral presentations exceeds the available time, the agency may ask prospective witnesses having similar views or belonging to similar types of groups or occupations to combine their presentations.

Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Ms. Walsh, no later than the day before the hearings begin. Where time permits, persons who have not requested time, but would like to make a statement, will be afforded an opportunity to do so at the end of the schedule for each day. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of the public hearing will be prepared and also placed in the NHTSA docket as soon as possible after the hearing. A schedule of the persons making oral presentations at the hearing will be available at the designated meeting area at the beginning of the public meeting.

Written Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR § 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Impact Analyses

A. Economic Impacts

The agency considered the economic implications of the proposed amendment and determined that the proposal is major within the meaning of Executive Order 12291 and significant within the meaning of the Department's regulatory procedures. The agency's detailed analysis of the economic effects is set forth in a preliminary regulatory impact analysis, copies of which are available free from the Docket Section. The contents of that analysis are generally described above.

B. Environmental Impacts

The agency has analyzed the environmental impacts of the proposed amendment to the 1986 model year passenger automobile average fuel economy standard in accordance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Copies of that analysis are available from the Docket Section. The agency's analysis concludes that no significant adverse environmental impact would result from the execution of this rulemaking action.

C. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. No passenger car manufacturer subject to the proposed rule would be classified as a "small business" under the Regulatory Flexibility Act. In the case of small businesses, small organizations, and small governmental units which purchase passenger cars, adoption of the proposed rule would not affect the availability of fuel efficient passenger cars or have a significant effect on the overall cost of purchasing and operating passenger cars.

In accordance with section 502(i) of the Cost Savings Act, the agency submitted this proposal to the Department of Energy for review. That Department provided extensive comments on the NPRM, which have been placed in the public docket. The Department of Energy stated that it fully supports issuance of this NPRM as consistent with the statutory criteria of "economic practicability" and the "need of the nation to conserve energy." There were no unaccommodated comments.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

PART 531—[AMENDED]

In consideration of the foregoing, 49 CFR Part 531 would be amended as follows:

1. The authority citation for Part 531 would be revised to read as follows:

Authority: 49 U.S.C. 1657, 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. The table in § 531.5(a) would be revised to read as follows:

§ 531.5 Fuel economy standards.

(a) * * *

Model year	Average fuel economy standard (miles per gallon)
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985	27.5
1986	26.0
1987 and thereafter	27.5

* * * * *

Issued on July 17, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-17285 Filed 7-18-85; 1:30 pm]

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federal register

Monday
July 22, 1985

Part VI

Environmental Protection Agency

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Bering Sea General Permit Area II; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2868-4]

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Bering Sea General Permit Area II

AGENCY: Environmental Protection Agency.

ACTION: Notice of draft General NPDES permit.

SUMMARY: The Regional Administrator, Region 10, is proposing to issue a draft general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas stratigraphic test and exploration wells on the Alaskan Outer Continental Shelf.

The proposed Bering Sea II general permit will authorize oil and gas stratigraphic test and exploration wells only (not production wells) in federal waters of St. George Basin. The permit will authorize discharges from operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) during Federal Lease Sale 89 (St. George Basin), with the exception of areas in the vicinity of the Pribilof Islands and Unimak Pass. A general NPDES permit (49 *FR* 23734, June 7, 1984) was issued May 30, 1984, for two previous Bering Sea lease sales, Federal Lease Sales 70 (St. George Basin) and 83 (Navarin Basin).

When issued, the proposed permit will establish effluent limitations, standards, prohibitions, and other conditions on discharges from facilities in the general permit area. These conditions are based on the administrative record. EPA regulations and the permit contain a procedure which allows the owner or operator of a point source discharge to apply for an individual permit instead of coverage under the general permit.

A brief description of the basis for the conditions and requirements of the proposed permit is given in the fact sheet published below.

Public comment period: Interested persons may submit comments on the draft general permit to EPA, Region 10, at the address below. Comments must be received in the regional office by August 23, 1985.

Public hearing: A public hearing on the proposed general permit is tentatively scheduled to be held at the Federal Building, Room 105, 710 "C" Street, Anchorage, Alaska on August 21, 1985, from 9:00 until all persons have been heard. Persons interested in making a statement at the hearing must contact Duane Karna at the address below or at (206) 442–1413 by 4:00 p.m. on August 15, 1985. The public hearing will be cancelled if insufficient interest is expressed in it. Interested persons can contact Duane Karna between the hours of 8:30 a.m. and 4 p.m. on August 16, 1985, to confirm that the hearing will take place. At the hearing, interested persons may submit oral or written statements concerning the draft general permit.

Requets for coverage: Written request for authorization to discharge under the general permit shall be provided, as described in Part I.A. of the draft permit, to EPA, Region 10, at least 60 days prior to initiation of discharges. The 60-day notification requirement may be waived for those permittees who notify EPA during the public comment period for the draft permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to operations at the discharge site. The permit also requires permittees to notify EPA no more than 7 days prior to the initiation of discharges at the site.

Administrative record: The administrative record for the draft permit is available for public review at EPA, Region 10, Room 10D, at the address listed below.

ADDRESS: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Duane Karna, Region 10, at the address listed above or telephone (206) 442–1413. Copies of the draft general permit and today's publication will be provided upon request.

Fact Sheet

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations [40 CFR 122.28(a)(2)], EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require similar monitoring requirements; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations [40 CFR 122.28(c)(1)], the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, for which separate permit conditions are required, such as areas of environmental concern, a separate individual or general permit may be required by the Regional Administrator.

The Regional Administrator has determined that exploratory oil and gas facilities operating in the area described in this general NPDES permit are more appropriately controlled by a general permit than by individual permits. The decision of the Regional Administrator is based on an evaluation of the section 403(c) Ocean Discharge Criteria (40 CFR Part 125, Subpart M) for discharges from exploratory operations in St. George Basin, the Agency's recent permit decisions in other Alaskan OCS areas, and the Final Environmental Impact Statement (Final EIS) for OCS Lease Sale 89.

Two geographic zones within proposed St. George Basin OCS Lease Sale 89 are excluded from coverage under the draft general permit. EPA has identified these zones as areas of biological concern based on information provided in the Final EIS for the proposed lease offering. The importance of the biological resources in these zones has led the Regional Administrator to conclude pursuant to 40 CFR 122.28(b)(2)(ii) and 122.28(c) that they should be excluded from coverage under the proposed general permit. Lease Sale 89 is scheduled for September 1985. If blocks within the two zones excluded from coverage under the general NPDES permit are offered and accepted for lease, operators in these areas would have to submit individual NPDES permit applications to EPA Region 10. The Region will review individual permit applications and all available site-specific environmental information on a case-by-case basis to determine appropriate permit conditions for operations in these areas.

The first zone excluded from coverage under the general permit was evaluated in the Final EIS as the Pribilof Islands Deferral Alternative. It consists of all whole and partial OCS blocks within a 50 statute mile radius of the Pribilof Islands. The area supports major populations of marine mammals, including benthic feeding species, and

marine and coastal birds, and provides important feeding habitat for these species. Furthermore, this region supports a major fishery for species of bottomfish and is an important migratory pathway for salmonid fish. Finally, recently reported work under the OCS Environmental Assessment Progam has revealed that virtually the entire U.S. population of blue king crab spawns in this area.

The second zone excluded from coverage under the proposed general permit is the area evaluated as the Unimak Pass Deferral Alternative in the Final EIS and consists of all whole and partial OCS blocks within 50 statute miles of Unimak Pass. This area is a major migratory route for fur seals, whales, and salmonid fish. Throughout most of the year, this region provides critical habitat for various species of migratory seabirds and waterfowl as well as for foraging seabirds.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director"). A source located within a general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedures Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under section 309 of the Act.

II. Nature of Discharges and Covered Facilities

The general permit proposed today authorizes the discharge of drilling muds, drill cuttings and associated operational wastewaters from exploratory operations in federal waters. Exploratory operations are defined as those operations involving the drilling of wells to determine the nature of potential hydrocarbon reserves. Under the permit, they are limited to a maximum of five wells at a single site. Exploration facilities covered by this general permit are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435).

This general permit authorizes the following discharges: drilling mud; drill cuttings and washwater; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; mud, cuttings, and cement at the seafloor; and test fluids. Descriptions of discharges are given in Part II.A. of the permit.

Drilling muds and cuttings are the major pollutant sources discharged from exploratory drilling operations.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations.

1. *BPT Effluent Limitations:* The Clean Water Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 *FR* 22069).

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines [40 CFR 435.11(d)]. The BPT effluent limitations guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline for sanitary waste required no discharge of floating solids. A "no floating solids" guideline also applied to domestic waste. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. *BAT and BCT Effluent Limitations:* All permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits must impose effluent limitations which control nonconventional pollutants by means of BAT not later than July 1, 1987.

BAT/BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment. Previous BPJ determinations for offshore oil and gas exploratory operations were incorporated into the general permits for the Bering and Beaufort Seas (49 *FR* 23734, June 7, 1984) and for Norton Sound (50 *FR* 23578, June 4, 1985).

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory drilling operations are well known to the Agency. Region 10 has issued numerous general and individual permits for such operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory drilling operations. With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations

based on installation of control equipment. All proposed BAT permit limitations can be achieved through product substitution, the technology basis for the limitations in this permit. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated. A discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(b) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test", BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular wastestream. Unlike the BAT permit limitations, there is one BCT limitation based on installation of control equipment. There is a 10 percent limitation on the oil content of cuttings, based on the efficiency of cuttings washers. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Region's best professional judgment determinations of BPT. Therefore, no incremental cost will be incurred.

B. Ocean Discharge Criteria.

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 *FR* 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The Regional Administrator has concluded that there is sufficient information to determine that exploratory oil and gas facilities operating under the effluent limitations and conditions in this general permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines. Conditions imposed under section 403(c) are discussed below in Part IV.D., Requirements Based on the Ocean Discharge Criteria Evaluation.

C. Section 308 of the Clean Water Act.

Under section 308 of the Act and 40 CFR 122.44(i) the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B. through D., respectively. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds and cuttings:	
Authorized muds and additives only	BAT.
No oil-based muds	BCT.
No diesel	BAT.
10% max. oil content of cuttings	BCT.
No free oil	BCT.
3 mg/kg cadmium and 1 mg/kg mercury in barite.	BAT.
Monitoring of metals and toxicity	Section 308.
Depth-related discharge rate limits	Section 403(c)
Monitor volume discharged	Section 308.
Inventory of added substances	Section 308.
Deck drainage:	
No free oil	BCT.
Monitor discharge rate	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/1 (facilities with more than 10 people).	BCT.
Monitor discharge rate	Section 308.
Domestic wastes:	
No floating solids	BCT.
Monitor discharge rate	Section 308.
Miscellaneous discharges (Discharges 006 to 014 in the permit):	
No free oil	BCT.
Monitor discharge rate	Section 308.
Inventory of added substances	Section 308.
Test fluids:	
pH 6.5–8.5	BCT & Marine Water Quality Criteria.
No free oil	BCT.
Oil & grease limits: 48 mg/1 monthly avg., 72 mg/1 daily max.	BCT
Monitor volume discharged	Section 308.
All discharges:	
No halogenated phenols, sodium chromate, sodium dichromate, or trisodium nitrilotriacetic acid.	BAT.
No floating solids	BCT.

B. BCT Requirements

1. *Oil and grease in test fluids:* Limited volumes of formation waters which are encountered during testing of the well are authorized for discharge as test fluids. Under BPT oil and grease in discharges of produced water were limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. Since formation waters may be present in test fluids, these limits are applied to the discharge of test fluids under BCT. This limitation is equal to BPT because Region 10 does not have technology performance data available at this time on which to base a more stringent limitation. As this limitation is equal to the BPT level of control, there is no incremental cost involved.

2. *Free oil and oil-based muds:* No discharge of free oil is permitted from discharges authorized by this permit. Region 10 has determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge

of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including uncontaminated bilge water, uncontaminated ballast water, test fluids, desalination unit wastes, boiler blowdown, non-contact cooling water, excess cement slurry, blowout preventer fluid, fire control system test water; and mud, cuttings and cement at the seafloor. Thus, the no free oil limitation is Region 10's best professional judgment determination of BPT controls for these discharges. They have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation.

Under the draft permit, the discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil.

No technology performance data available to Region 10 indicate that more stringent standards are appropriate at this time. Region 10 has, therefore, set BCT effluent limitations equal to the BPT level of control. As such, these limitations impose no incremental costs.

The monitoring requirement for determining compliance with the effluent limitation on free oil is in most instances a visual observation of the receiving water. However, the Static Sheen Test is required for monitoring free oil in discharges with the greatest likelihood of oil contamination. These are: (1) Drilling muds and drill cuttings, with the Static Sheen Test required year-round, and (2) deck drainage and bilge water, with the Static Sheen Test required when ice is present on the receiving water. The Static Sheen Test on drilling muds must be conducted prior to bulk discharges. Thus, a violation of the limitation due to the discharge of oil-contaminated drilling muds can be prevented, something a visual observation of a sheen on the receiving water does not allow.

3. *Oil content of cuttings:* The draft general permit restricts the discharge of oil-contaminated cuttings by prohibiting the discharge of free oil (see Part IV.B.2) and by limiting the maximum mineral oil content of cuttings. The limitation of 10 percent by weight on oil content is based on the efficiency of currently available cuttings washers in removing oil from drill cuttings. Region 10 expects that if mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives are used, drill cuttings would, at a minimum, have to be washed by cuttings washers to meet the free oil limitation. The limitation on the maximum oil content of drill cuttings has been imposed as an additional means of effectively controlling the discharge of oil from cuttings associated with these muds.

Region 10 expects that cuttings washers will routinely be required only for drilling operations which use mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives, and not for all drilling operations. Due to the rare usage of such muds by exploratory drilling operations, very few, if any, Alaskan exploratory facilities will require the installation of cuttings washers. Any facility requiring a cutting washer to meet the 10 percent oil limitation is expected to already require a cutting washer to meet the BPT effluent limitation of no free oil. Therefore, there is no incremental cost involved beyond the cost of monitoring compliance, and the limitation passes the BCT cost test.

The permit requires an analysis of drill cuttings for oil content daily when oil-based drilling fluids or oil additives are used. Analysis is also required daily when drilling fluids could be contaminated with hydrocarbons from the formation. In addition, analysis is required immediately on any sample that has failed the daily Static Sheen Test if a discharge has occurred. Two alternative analytical methods for determining the oil content of drill cuttings are specified in the permit: (1) The soxhlet extraction procedure for oil and grease (as specified in 40 CFR Part 136), and (2) the American Petroleum Institute retort distillation procedure for oil.

4. *pH:* The pH of discharged test fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In the Agency's best professional judgment, this limitation appropriately equals a BPT level of control. No more stringent standard has been identified by the Agency at this time. Therefore, the Agency is setting a BCT effluent limitation for the pH of test fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.2 pH unit will not occur beyond the edge of the 100-meter mixing zone [40 CFR 125.121(c)]. This requirement has been and is routinely complied with by operations under previous BPT permits and thus, reflects no cost incremental to BPT.

5. *Floating solids:* The BCT prohibition on floating solids is equal to the BCT level of control for sanitary wastes. As with the free oil limitations for other waste streams, Region 10 has determined that the BCT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is Region 10's best professional judgment determination of BPT limitations for these discharges. They have been subject to this limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. Therefore, Region 10 has determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

6. *Chlorine:* The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/1 in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. *Diesel oil:* The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume

aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Region has determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 has concluded that establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. The level achievable by BAT controls on the specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized. However, the limited data on the many diesel and mineral oils, mud formulations, and the various additives used, and on the unquantified changes in toxic pollutant concentrations during drilling all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel by gas chromatography alone. The high cost of compliance monitoring, which may include awaiting results of analyses, which must be conducted onshore, possibly outside the State of Alaska, also would be unwarranted. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil is economically and technologically feasible and allows a determination of permit compliance prior to discharge.

The prohibition on the discharge of diesel is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil, and do not impose unreasonable additional costs on industry. The Agency has relied primarily on the increased cost of mineral oil over diesel oil as a basis for this determination. For example, mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The increased costs associated with using mineral oil rather than diesel oil for 50 barrels (2,100 gallons) of oil (the maximum amount generally expected in a concentrated spotting or "pill" formulation used to free stuck drill pipe) would therefore be equal to approximately $5,500. Since the frequency of differential sticking of drill pipe requiring the use of oil-based spotting formulations is low for exploratory operations (less than once per well on an average), this cost would not be incurred for each operation. The Agency has evaluated other costs associated with either diesel or mineral use in response to comments on the draft Norton Sound permit (50 FR 28589, Response to Comment 10). Both analyses show that the cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable.

Region 10 has considered limiting "free oil," "oil-based drilling fluids," and "oil content of cuttings" as indicators of toxic pollutants. While the Agency has determined that such effluent limitations will control the discharge of toxic pollutants in these oils, it is unnecessary to designate these pollutants as indicators since the same levels of control have been established under BCT, which are equal to levels of control required by the BPT effluent limitations guidelines. Therefore, redundant limitations under BAT are not proposed for these pollutant parameters.

2. Mercury and cadmium in barite. The permit contains limitations of 1 mg/kg mercury and 3 mg/kg cadmium in barite, a major constituent of drilling muds. These restrictions are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals which can occur as contaminants in some sources of barite. An identical limitation is included in the general permits for the Bering and Beaufort Seas and Norton Sound.

As discussed in the fact sheets for the above permits, the justification for the limitation under BAT is product substitution; i.e., Alaskan operators can substitute "clean" barite, which meets the above limitations, for contaminated barite which does not. Numerous offshore exploratory wells have been drilled in Alaska over the past year, and chemical analyses have shown that the barite used has not exceeded the limitations. Given that "clean" barite is available and that operators in the Bering and Beaufort Seas have been complying with an identical limitation, Region 10 believes that this limitation is both technologically feasible and economically achievable.

Region 10 has determined that it is impractical at this time to place the limitations on drilling mud until additional data are collected. Furthermore, if the limitation were placed on the drilling mud rather than on the barite, it would not be feasible for an operator to determine in advance if the discharge complied with the permit requirements since metals analyses must be conducted at commercial laboratories onshore. Such a requirement may impose costly and unreasonable delays while the analyses were being conducted.

EPA does recognize the possibility of changes in the available supply of "clean" barite. The draft permit contains a provision which would allow the Water Division Director the discretion to grant a waiver from the limitations on a case-by-case basis if the permittee (1) satisfactorily demonstrates that barite which meets the limitation is not available, and (2) provides results of analyses of the substitute barite. In determining the availability of "clean" barite under this provision, Region 10 will reasonably consider all relevant factors, including the cost of obtaining barite which meets the limitations. The Agency solicits comments and supporting data from those individuals who do not believe they can meet the above limitations. The Agency also solicits data indicating any increased costs that a permittee has incurred in meeting the barite limitations contained in the general permits for offshore drilling in the Beaufort and Bering Seas (49 FR 23734, June 7, 1984).

3. *Generic muds and authorized additives.* The draft permit limits the discharge of toxic substances in drilling

fluids by allowing only the discharge of generic drilling muds (listed in Table 1 of the draft permit) and additives for which acceptable bioassay or chemical data are available. Permittees are required to certify in advance of discharge that only generic drilling muds and authorized additives will be discharged.

Permittees may discharge additives listed in Table 2 of the draft permit up to the specified concentrations without special permission. This table is the same as Table 2 in the Norton Sound general permit (50 *FR* 23578, June 4, 1985). The permit contains a provision (Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Any discharge of a generic mud which has been modified other than by addition of an additive listed in Table 2 requires submission of information demonstrating that it passes the criteria in Part II.C.1.d. of the permit or prior authorization by EPA, Region 10. Permittees may request authorization to discharge additives (including mineral oils) not listed in Table 2 by submitting appropriate information and bioassay data in advance of discharge. Region 10 will determine whether the use of the requested additives is likely to cause the mud system to be more toxic than Generic Mud No. 1, which is the base formulation which the Agency uses to determine acceptable toxicity levels for discharge of fluids. Other criteria (e.g., persistence and degradation), as appropriate, are also considered in the evaluation process. The proposed permit furthermore contains a provision (Part II.C.1.f. of the permit) which allows an exception for the discharge of mineral oil-containing muds which exceed the toxicity of Mud No. 1 if the least toxic available alternative is discharged.

In some cases, interim authorizations to discharge may be granted if preliminary bioassay data are submitted and the Region determines that additional bioassay testing or other analyses are required. Such testing may be required, for example, to examine possible cumulative or synergistic effects if the additive is to be used in combination with a number of other additives. Because the additional testing may take a considerable amount of time to conduct, interim authorization to discharge may be granted so that operations are not impaired for an unreasonable amount of time. Interim authorizations may also require testing a used drilling mud from a rig.

This approach to limiting toxicity is expected to control the discharge of listed toxic as well as nonconventional pollutants in drilling muds. For example, the toxicity of muds containing lubricants, including mineral oil products, may vary widely, and such additives may greatly increase the toxicity of the mud. Studies on diesel-contaminated drilling muds have shown toxicity to be strongly correlated with content of aromatic hydrocarbons, which include listed toxic pollutants. Some mineral oils also contain aromatic hydrocarbons which are listed toxics, such as fluorene, naphthalene, and phenanthrene. The toxicity of muds containing these oils is assumed to be caused, in part, by the listed toxic pollutants as well as by the nonconventional pollutants. Region 10 has determined that it is technically and economically infeasible to directly limit the toxic pollutants in drilling muds, as discussed in Part IV.C.1. Therefore, the Region has determined that the toxicity limitations (e.g., generic muds and approved additives) constitute a reasonable approach which is expected to control not only listed toxic pollutants, but other toxic substances (i.e., toxic nonconventional pollutants) as well.

The technology basis for this permit condition is product substitution; i.e., mud additives and components which would cause the toxicity of a mud system to exceed that of Generic Mud No. 1 can be replaced by less toxic mud additives and components.

Under section 308 of the CWA, compliance with this permit condition will be monitored in two ways: first, by requiring that permittees certify that only generic muds and authorized additives will be discharged; and second, by requiring that permittees submit an end-of-well inventory listing all chemicals and the amounts of each added to each mud system. In addition, permittees must analyze one sample from the end-of-well mud system for metals content and toxicity. The metals data will be used to verify that mercury and cadmium limits on barite are adequately controlling metal concentrations in used muds. The Drilling Fluids Toxicity Test, performed on the end-of-well mud system, will provide a comparison between the toxicity of used muds containing mixtures of additives and the bioassay data submitted on individual additives prior to discharge.

4. Other toxic and nonconventional compounds. Under the permit discharges of the following pollutants are prohibited: halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and dichromate contain chromium, also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the BPT general permits for the Beaufort Sea and Norton Sound (48 *FR* 54881, December 7, 1983) as well as in the BAT/BCT general permits for the Bering and Beaufort Seas and Norton Sound. These compounds are therefore subject to BAT limitations. Because operators complied with this provision in the BPT permit, there is no additional cost to the industry.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. Drilling muds, cuttings, and washwater. Additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the environment. Lease Sale 89 includes water depths between 30 and 3,200 meters. Discharge rate limitations on muds and cuttings have been established in the Ocean Discharge Criteria Evaluation process in order to allow adequate dispersion of the discharges. These maximum rates will ensure that acceptable toxicity levels will be met at the edge of the 100-meter mixing zone during open water conditions.

2. Other discharges (003–015). These discharges are adequately controlled by the limitations in Parts II.C.–F. of the draft permit to ensure no unreasonable degradation of the marine environment due to those discharges.

V. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of section 311. However, this permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the revised Ocean Discharge Criteria Evaluation and in the Final Environmental Impact

Statement prepared for Federal Lease Sale 89, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their critical habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this general permit are consistent with local and state Coastal Management Plans. The proposed permit and consistency determination will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the general permit may be issued.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

No state waters are included in this permit.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 USC 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the environmental monitoring requirements pursuant to section 403(c) of the Clean Water Act in Part II.B. of this permit are similar to the monitoring requirements that were approved by OMB for the previously issued Beaufort Sea general NPDES permit (June 7, 1984; 49 *FR* 23734) and the Norton Sound general permit (50 *FR* 23578, June 4, 1985). The final general permit will explain how the information collection requirements respond to any OMB or public comments.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 *FR* 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 17, 1985.

Signed:

Ernesta B. Barnes,

Regional Administrator, Region 10.

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H.J. Res. 325/Pub. L. 99-66

To designate July 13, 1985, as "Live Aid Day". (July 17, 1985; 99 Stat. 164) Price $1.00

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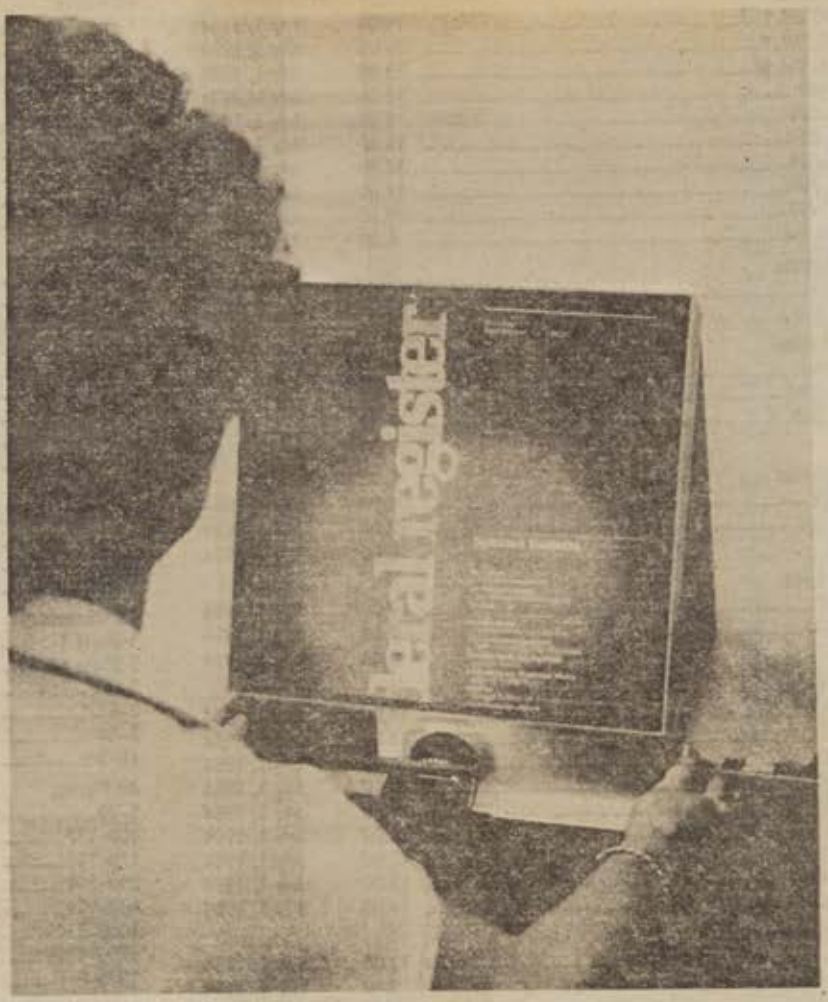
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