

Friday
January 31, 1986

Federal Register

Briefings on How To Use the Federal Register—

For information on briefings in St. Louis, MO, and Denver, CO, see announcement on the inside cover of this issue.

Selected Subjects

Aviation Safety

Federal Aviation Administration

Banks, Banking

Federal Reserve System

Equal Employment Opportunity

Army Department

Flood Insurance

Federal Emergency Management Agency

Hazardous Waste

Environmental Protection Agency

Inventions and Patents

National Aeronautics and Space Administration

Marketing Agreements

Agricultural Marketing Service

Navigation (Water)

Navy Department

Organization and Functions (Government Agencies)

National Aeronautics and Space Administration

Railroad Safety

Federal Railroad Administration

Trade Practices

Federal Trade Commission



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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ST. LOUIS, MO

WHEN: March 11; at 9 am.

WHERE: Room 1612,
Federal Building,
1520 Market Street, St. Louis, MO.

RESERVATIONS: Delores O'Guin,
St. Louis Federal Information Center.
314-425-4109

DENVER, CO

WHEN: March 24; at 9 am.

WHERE: Room 239,
Federal Building,
1961 Stout Street, Denver, CO.

RESERVATIONS: Elizabeth Stout
Denver Federal Information Center.
303-236-7181

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Presidential Documents

Title 3—

Proclamation 5435 of January 29, 1986

The President

American Heart Month, 1986

By the President of the United States of America

A Proclamation

Cardiovascular diseases, which include heart disease, stroke, and other vascular disorders, account for almost as many deaths in this Nation as all other causes combined. In fact, almost one out of every two deaths can be attributed to cardiovascular disease. As recently as 1983, heart and blood vessel diseases killed nearly one million Americans—more people than cancer, accidents, pneumonia, and influenza combined. Even more tragic is the fact that one-fifth of all people killed by cardiovascular diseases are younger than 65.

Heart and blood vessel diseases are not only deadly—they are pervasive. More than one-fourth of the current U.S. population, or more than 63 million of our citizens, suffer from some form of these diseases. Their toll in human suffering can never be calculated.

The economic loss to the Nation is also high. Some \$78.6 billion will be spent in 1986 for physician and nursing services, hospital and nursing home care, medications, and in lost productivity due to disability related to these maladies.

But progress is being made. The American Heart Association, a not-for-profit volunteer health agency, and the Federal government, through the National Heart, Lung and Blood Institute, have combined forces since 1948 to find better ways both to treat and prevent cardiovascular diseases and to educate the medical community about the most effective techniques.

Because of important advances made by medical science in recent years, premature death and disability have declined. From 1973 to 1983 the death rate from cardiovascular diseases dropped 29 percent.

Doctors are seeking to reduce the risk of heart disease, stroke, and atherosclerosis (hardening of the arteries) in their patients by encouraging them to lower their blood pressure, stop smoking, and reduce the amount of cholesterol and saturated fats in their diets. The American Heart Association has contributed to this effort by its continued support of research and its commitment to educating Americans about the need to adopt healthful habits of living.

The Federal government, meanwhile, continues to support a large array of cardiovascular research projects. It also encourages all Americans to take responsibility for their own well-being by maintaining good health habits.

Recognizing that Americans everywhere have a role to play in this continuing battle against a major killer, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of February 1986 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, the officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to the resolution of the nationwide problem of cardiovascular diseases.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-2310

Filed 1-29-86; 4:18 pm]

Billing code 3195-01-M

Presidential Documents

Proclamation 5436 of January 29, 1986

Sesquicentennial Year of the National Library of Medicine, 1986

By the President of the United States of America

A Proclamation

One hundred fifty years ago, in 1836, what is now the largest and most distinguished medical library and medical communications center in the world was only a small collection of medical books in the office of the United States Army Surgeon General. That transition is an inspiring story—one that speaks of both the need of health professionals and researchers for rapid access to information and of the response to that need by a succession of dedicated and visionary leaders of the National Library of Medicine.

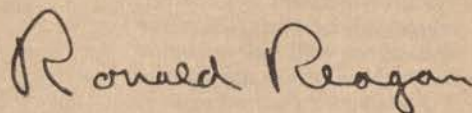
The National Library of Medicine responded to the need for medical information in part by building an exhaustive collection of the published literature of medicine. Through pioneering research into the latest communications technology, the Library also developed the renowned MEDLARS systems, which provides researchers and health professionals around the world with almost instantaneous access to the biomedical literature. Its publications, like *Index Medicus*, are essential tools for health sciences research. The Library has developed a network throughout the United States—the Regional Medical Library Network—to provide efficient information services to doctors, researchers, students and others, no matter how far they may be from a medical center.

American citizens, for whom the health of their loved ones is always of primary concern, can take great pride in their National Library of Medicine, which takes life-giving knowledge from research, organizes it, and transmits it to those who can best use it to fight disease and disability and to improve the quality of life for all of us.

The Congress, by Senate Joint Resolution 198, has designated 1986 as the "Sesquicentennial Year of the National Library of Medicine" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim 1986 as the Sesquicentennial Year of the National Library of Medicine. I call upon the people of the United States to observe this occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of January, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.



THE NATIONAL LIBRARY
OF THE UNITED STATES

OF THE LIBRARY OF THE UNITED STATES

A. J. J. J.

The National Library of the United States is a collection of books, manuscripts, and other materials of historical and scientific interest. It is the largest and most comprehensive collection of its kind in the world. The library is open to the public and is a valuable resource for scholars and students alike.

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John D. Smith

Rules and Regulations

Federal Register

Vol. 51, No. 21

Friday, January 31, 1986

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 907

[Navel Orange Reg. 624]

Naval Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 624 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period January 31 through February 6, 1986. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 624 (§ 907.924) is effective for the period January 31-February 6, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202-447-5053.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information

submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1985-86 adopted by the Navel Orange Administrative Committee. The committee met publicly on January 28, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for fresh navel oranges is weak. The regulation is needed to continue providing stability in the market and promote orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing Agreements and Orders, California, Arizona, Oranges (Navel).

1. The authority citation for 7 CFR 907 continues to read:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 907.924 Navel Orange Regulation 624 is hereby added to read:

§ 907.924 Navel Orange Regulation 624.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 31, 1986, through February 6, 1986, are established as follows:

- (a) *District 1:* 1,600,000 cartons;
- (b) *District 2:* Unlimited cartons;
- (c) *District 3:* Unlimited cartons;
- (d) *District 4:* Unlimited cartons.

Dated: January 29, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-2301 Filed 1-30-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Final Free and Restricted Percentages for the 1985-86 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes free and restricted marketing percentages for domestic inshell filberts for the marketing year which began July 1, 1985. The action is taken to promote orderly marketing conditions for the 1985 crop and is based on recommendations of the Filbert/Hazelnut Marketing Board which works with the USDA in administering the program.

DATES: Effective July 1, 1985 to June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Acting Chief, Marketing Order Administration Branch, AMS, USDA, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the REA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules proposed thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 14 handlers of filberts/hazelnuts will be subject to regulation under the marketing order for filberts/hazelnuts grown in Oregon and Washington during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers the added burden on small entities if present at all is not significant.

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking on establishing final free and restricted percentages and that good cause exists for not postponing the effective time of the establishment of the marketing percentages until 30 days after publication in the *Federal Register* (5 U.S.C. 553) because: (1) Establishment of the percentages is needed promptly to dispel any uncertainties about volume regulation for the 1985-86 marketing year and to maintain orderly marketing conditions for the 1985 crop; (2) growers and handlers have been conducting their operations in anticipation of the establishment of the free and restricted percentages contained in this document; (3) this action must be taken promptly to achieve its purpose of releasing the full 1985-86 trade demand quantity established November 20, 1985 (50 FR 48371); and (4) the 1985-86 marketing year began July 1, 1985, and the percentages established herein apply to all merchantable filberts handled from the beginning of the marketing year.

This action establishes free and restricted percentages of 20 percent and 80 percent, respectively, for the 1985-86 marketing year. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The marketing percentages were recommended by the Filbert/Hazelnut Marketing Board, which works with USDA in administering the order.

Section 982.40(b) of the order prescribes that prior to August 1 of a marketing year, the Filbert/Hazelnut Marketing Board shall recommend establishment of an inshell trade demand for that year to the Secretary. If the Secretary finds, on the basis of the Board's recommendation or other information, that volume regulation for that marketing year would tend to effectuate the declared policy of the act, the Secretary shall establish the trade demand. On November 20, 1985, a trade demand of 5,000 tons was established

because anticipated inshell supplies were expected to be far in excess of inshell needs, and volume regulation appeared appropriate for the 1985-86 marketing year.

Under § 982.40(c), the trade demand is used in the computation of preliminary free and restricted percentages and final free and restricted percentages. The preliminary percentages do not have to be approved by the Secretary but the final percentages do have to be approved. In accordance with these provisions, the Board computed and announced preliminary free and restricted percentages of 16 percent and 84 percent, respectively, to release 80 percent of its recommended trade demand. On November 14, 1985, the Board met and recommended final free and restricted percentages of 20 percent and 80 percent to release 100 percent of the trade demand of 5,000 tons to the Secretary for approval.

In calculating the percentages, the Board considered the following supply and demand information for the 1985-86 marketing year:

Inshell Supply	Tons
(1) Total production.....	24,000
(2) Less substandard, farm use, etc.....	2,402
(3) Merchantable production.....	21,598
(4) Plus carryover July 1, 1985, subject to regulation.....	0
(5) Supply subject to regulation (Item 3 plus Item 4).....	21,598
Inshell Requirements	
(6) Trade demand.....	5,000
(7) Less carryover July 1, 1985, not subject to regulation.....	736
(8) Adjusted trade demand.....	4,264
Percentages	Percent
(9) Free percentage (Item 8 divided by Item 5).....	20
(10) Restricted percentage (100 percent minus 20 percent).....	80

Pursuant to § 982.40(c), at any time prior to February 15 of the marketing year, the Board may recommend a revision in its marketing policy. The Board plans to meet later to modify its marketing policy to make a carryout available for early shipments next season.

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be

noncompetitive with normal market outlets for inshell filberts.

After consideration of all relevant matter presented, the information and recommendations submitted by the Board, and other available information, it is found that the establishment, under § 982.40, of free and restricted percentages, as hereinafter set forth, for the 1985-86 marketing year will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 982

Marketing agreement and order, Filberts, Hazelnuts, Oregon, and Washington.

PART 982—[AMENDED]

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Therefore, paragraph (b) is added to § 982.235 to read as follows: (The following section is not published in the Code of Federal Regulations).

§ 982.235 Trade demand and free and restricted percentages for the 1985-86 marketing year.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1985-86 marketing year shall be 20 percent and 80 percent, respectively.

Dated: January 27, 1986.

Joseph A. Gribbin,
Director, Fruit and Vegetable Division.
[FR Doc. 86-2143 Filed 1-30-86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

[Regulations G, T, U and X]

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective

November 12, 1985 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: February 11, 1986.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202)-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions was filed with the original of this document. This List supersedes the last complete List which was effective November 12, 1985 (50 FR 45398, October 31, 1985). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U and X (12 CFR 207, 220, 221 and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under an SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17(a) and (b), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because

the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking; Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting requirements, Securities

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting requirements, Securities

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS Security); Reporting Requirements

12 CFR Part 224

Banks, Banking, Borrowers; Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 207.2(k) and 6(c) of Regulation G, 220.2(s) and 17(c) of Regulation T, and 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of additions to and deletions from the Board's List:

Additions

Aegon N.V.
Ordinary Shares, Dfl 5 nominal value
Alabama Federal Savings & Loan Association
\$0.01 par common
American Cellular Telephone Corporation
Class A, \$0.01 par common
American Insured Mortgage Investors
Depository units of limited partnership
American Savings Bank, FSB (New York),
No par common
American Savings Bank, F.S.B. (Washington).
\$1.00 par common
American Technical Ceramics Corp.,
\$0.01 par common
Americare Health Corporation
No par common
Anitec Image Technology Corp.
\$0.10 par common
Ark Restaurants Corp.
\$0.01 par common
Autodesk, Inc.
No par common
B.M.J. Financial Corp.
\$5.00 par common

BNH Bancshares, Inc.
\$8.00 par common
Barrister Information Systems Corporation
\$2.4 par common
Beaman Corporation
\$1.00 par common
Ben & Jerry's Homemade, Inc.
\$0.033 1/4 par common
Bindley Western Industries Inc.
8% convertible subordinated debentures
Binghamton Savings Bank
\$1.00 par common
Birmingham Steel Corporation
\$0.01 par common
Brintec Corporation
\$0.01 par common
Bull & Bear Group, Inc.
Class A, \$0.01 par common
Capital Federal Savings & Loan Association
(California)
\$1.00 par common
Carver Corporation
\$0.01 par common
Central Sprinkler Corporation
\$0.01 par common
Child World, Inc.
\$0.10 par common
Circadian Inc.
No par common
Circle Express, Inc.
No par common
Citizens and Southern Corporation, The
(South Carolina)
8 3/4% convertible subordinate debentures
City Investing Company Liquidating Trust
Units of beneficial interest
Classified Financial Corp.
\$3.00 par common
Coast Savings & Loan Association
No par common
Cochrane Furniture Company, Inc.
No par common
Colonial Group, Inc., The
Class A, \$0.10 par common
Columbia First Federal Savings & Loan
Association (Washington, D.C.)
\$0.01 par common
Columbia Savings & Loan Association
(California)
Warrants (expire 05-15-93)
Compaq Computer Corporation
9 1/4% convertible subordinate debentures
Concord Computing Corporation
\$1.00 par common
Conseco, Inc.
No par common
Co-Operative Bank of Concord, The
\$1.00 par common
Costco Wholesale Corporation
\$0.01 par common
Crossland Savings, FSB (New York)
No par common
Dairy Mart Convenience Stores, Inc.
Class A, \$0.01 par common
Days Inns Corporation
\$0.04 par common
De Tomaso Industries, Inc.
\$2.50 par common
Defiance Precision Products, Inc.

\$.05 par common	\$.01 par common	Rogers Cablesystems of America, Inc.
Derby Savings Bank	Machine Vison International Corporation	Class A, \$1.00 par common
\$1.00 par common	\$1.00 par common	Rotech Medical Corporation
Dest Corporation	Maxicare Health Plans, Inc.	\$.0002 par common
\$.01 par common	7% convertible subordinate debentures	Roto-Rooter, Inc.
Diversified Human Resources Group, Inc.	Maxtor Corporation	\$1.00 par common
\$.10 par common	No par common	SCOA Industries, Inc.
E & B Marine, Inc.	Med-Chem Products, Inc.	Series B, \$.01 par cumulative exchangeable preferred
\$.01 par common	\$.01 par common	SHL Systemhouse Inc.
Eaton Vance Corporation	Meditrust Corporation	No par common
Non-voting, \$.25 par common	No par shares of beneficial interest	S-K-I Ltd.
Electronic Tele-Communications, Inc.	Mercury General Corporation	\$1.00 par common
Class A, non-voting, \$.01 par common	\$1.00 par common	Seaman Furniture Company, Inc.
Engineered Support Systems, Inc.	Met-Coil Systems Corporation	\$.01 par common
\$.01 par common	\$.01 par common	Sierra Real Estate Equity Trust '83
Financial Trust Corp.	Metropolitan Federal Savings and Loan Association (Tennessee)	No par shares of beneficial interest
\$5.00 par common	\$1.00 par common	Sierra Real Estate Equity Trust '84
First Indiana Bancorp	Metropolitan Savings & Loan Association (Texas)	No par shares of beneficial interest
\$10.00 par common	\$1.00 par common	Silvar-Lisco
Frost & Sullivan, Inc.	Morgan Products Ltd.	No par common
\$.01 par common	\$1.00 par common	Southbrook International Television Company PLC
Fulton Financial Corporation	Mt. Baker Bank, a Savings Bank (Washington)	Ordinary Shares, par value 10 pence
\$2.50 par common	\$5.00 par common	Southern United Life Insurance Company
GWC Corporation	National Guardian Corporation, The	No par common
\$.01 par common	\$1.00 par common	Southwest National Corporation
Gateway Bank (Connecticut)	New York Marine and General Insurance Company	\$10.00 par common
\$1.00 par common	\$1.00 par common	Spearhead Industries, Inc.
Gentex Corporation	Noble Drilling Corporation	\$.05 par common
\$.06 par common	\$1.00 par common	Sporting Live, Inc.
Geodynamics Corporation	North American Holding Corp.	\$.01 par common
No par common	\$.01 par common	Stanline, Inc.
Goodmark Foods, Inc.	Occidental/Nebraska Federal Savings Bank	\$.01 par common
\$.01 par common	\$1.00 par common	Steel Technologies, Inc.
Grist Mill Company	Occupational Medical Corporation of America, Inc.	No par common
\$1.00 par common	No par common	Stereo Village, Inc.
Guaranty Bancshares Corporation	Old Republic International Corporation	\$.01 par common
No par common	Series F, convertible preferred, stated value \$50	Stockton Savings & Loan Association (California)
Haber, Inc.	Old Spaghetti Warehouse, Inc.	\$.33 1/2 par common
Voting, \$2.00 par cumulative convertible preferred, Warrants (expire 11-26-86)	\$.01 par common	Stokely USA, Inc.
Hal Roach Studios, Inc.	Opto Mechanik, Inc.	\$.20 par common
\$.001 par common	\$1.00 par common	Sunworld International Airways, Inc.
Haryl Products, Inc.	Orange Julius International, Inc.	\$.20 par common
\$.10 par common	\$.001 par common	Svenska Cellulosa Aktiebolaget SCA
Healthcare Services of America, Inc.	PNC Financial Corp	Non-restricted Class B shares, SEK 25 nominal value
\$1.00 par common	Services C, \$1.60 par cumulative convertible preferred	Sylvan Learning Corp.
Healthco International, Inc.	Pacificare Health Systems, Inc.	\$.01 par common
\$.05 par common	\$.50 par common	Telepictures Corporation
Healthways Systems, Inc.	Palmetto Federal Savings Bank of South Carolina	8 1/4% convertible subordinate debentures
\$.01 par common	\$1.00 par common	TRI-Star Pictures Inc.
Heart Federal Savings & Loan Association (California)	Plains Resources Inc.	\$1.00 par common
\$1.00 par common	\$1.00 par preferred stock	USBancorp, Inc.
Home Federal Savings Bank of Georgia	Poughkeepsie Savings Bank, F.S.B., The (New York)	Class A, \$2.125 par convertible preferred
\$1.00 par common	\$.01 par common	VM Software, Inc.
Horizon Air Industries Inc.	Progressive Corporation, The (Ohio)	\$.01 par common
\$1.20 cumulative convertible preferred	7% convertible subordinate debentures	Vail Associates, Inc.
Horizons Research, Inc.	QED Exploration, Inc.	No par common
No par common	No par common	Virginia First Savings, F.S.B.
Hytek International corporation	Rectisel Corporation	\$4.00 par common
\$.05 par common	\$1.00 par common	Western Financial Corporation
Illinois Marine Bancorp, Inc.	Regina Company, Inc., The	\$1.00 par common
\$10.00 par common	\$.0001 par common	Wood Bros. Homes, Inc.
Investors Savings and Loan Association (Virginia)	Republic Pictures Corporation	\$.01 par common
Series A, \$.95 par cumulative convertible preferred	Class A, \$.01 par common	
Iverson Technology Corp.	Ridgewood Properties, Inc.	
\$.01 par common	\$.01 par common	
Jaguar, PLC	Rogers Cablesystems, Inc.	
Ordinary Shares, par value 25 pence	Class B, no par common	
John Adams Life Corporation		
No par common		
Leader Development Corporation		
No par common		
Laskin's, Inc.		

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Adventure Lands of America, Inc.
No par common
Aztec International, Ltd.
\$1.00 par common

Besicorp Group, Inc.
\$.01 par common
Continental Steel Corporation
\$1.00 par common
Denelcor, Inc.
No par common
Eagle Computer, Inc.
No par common
First Data Resources, Inc.
\$.01 par common
First Jersey National Corporation
Series A. \$1.00 par Cumulative convertible preferred
Florida Gulf Realty Trust
\$.10 par shares of beneficial interest
Forum Group, Inc.
Warrants (expire 12-31-85)
Good Taco Corporation, The
\$.01 par common
Harken Oil & Gas, Inc.
\$1.00 par common
Info Designs, Inc.
\$.001 par common
Intermagetics General Corporation
Warrants (expire 11-02-88)
KRM Petroleum Corporation
\$.10 par common
Midland Capital Corporation
\$1.00 par common
Ohio Ferro-Alloys Corporation
\$1.00 par common
Oxygen Enrichment Company, Ltd.
\$.01 par common
Peoples Restaurants, Inc.
\$1.00 par common
Petromac Energy, Inc.
No par common
Pullman Peabody Co.
Warrants (expire 02-24-88)
Schaak Electronics, Inc.
\$.10 par common
Space Microwave Laboratories, Inc.
No par common
Toledo Technology, Inc.
\$.50 par common
Topsy's International Inc.
Class A, \$.10 par common
Twin City Barge Inc.
\$1.00 par common
Unioil
\$.01 par common
United States Sugar Corporation
\$1.00 par common
Vector Graphics, Inc.
No par common
Weatherford, R.V. Co.
No par common
Westside Bancorporation, Inc.
\$.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Atlantic Bancorporation
\$1.00 par common
Bankers Trust of South Carolina
\$10.00 par common
Banknorth Group, Inc.
\$1.00 par common
Bibb Company, The
No par common
Chyron Corporation
\$.01 par common
Columbia Savings & Loan Association
(California)
\$1.00 par common

Compaq Computer Corporation
\$.01 par common
Dallas Federal Financial Corporation
\$1.00 par common
Educational Computer Corporation
\$.10 par common
Financial Institution Services, Inc.
\$.10 par common
First Capital Holdings Corporation
\$.01 par common
Gott Corporation
No par common
Hoover Company, The
\$2.50 par common
Hungrey Tigger Inc.
\$.05 par common
International Bank (Washington, D.C.)
\$1.00 par common Class A, \$1.00 par common
International Technology Corporation
\$1.00 par common
Jefferson National Life Insurance Company
\$1.00 par capital
Lori Corporation, The
\$.01 par common
Magnet Bank, F.S.B. (West Virginia)
\$.01 par common
Maine National Corporation
\$.50 par common
Mcfaddin Ventures, Inc.
\$.10 par common
Metropolitan Financial Corporation
\$.01 par common
Morgan Keegan, Inc.
\$.625 par common
Nico, Inc.
\$.01 par common
Northwestern Financial Corporation
\$1.00 par common
Nutri-Foods Int'l., Inc.
\$.01 par common
PLM Financial Services, Inc.
No par common
Pansophics Systems, Inc.
No par common
Perfect Fit, Inc.
\$.01 par common
Photon Sources, Inc.
No par common
Pullman Peabody Co.
\$.10 par common
Riht Financial Corp.
\$1.00 par common
Restaurant Systems, Inc.
\$.05 par common
Second National Corporation (Michigan)
\$12.50 par common
Shop & Go, Inc.
\$.01 par common
Spectrum Group Inc.
\$.01 par common
Standum Inc.
\$1.00 par common
Storer Communications, Inc.
Warrants (expire 05-15-88)
TLS, Co.
No par common
Times Fiber Communications, Inc.
\$1.00 par common
Tofu Time, Inc.
\$.01 par common
Union Trust Bancorp
\$.50 par common
West Chemical Products, Inc.
\$.50 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director

of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), January 27, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc 86-1907 Filed 1-28-86; 9:15 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-43-AD; Amdt. 39-5225]

Airworthiness Directives; Cessna Model T303 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 85-23-06, applicable to Cessna Model T303 airplanes and codifies the corresponding emergency AD letter dated November 14, 1985, into the Federal Register. This AD requires a one time inspection for evidence of exhaust gas leakage and a leak check of the engine fuel metering unit tee fittings. The AD is needed to preclude the possibility of a fire in this area.

EFFECTIVE DATE: February 5, 1986, to all persons except those persons to whom it was made immediately effective by priority letter from the FAA dated November 14, 1985. Compliance: As indicated in the body of the AD.

ADDRESSES: A copy of the information pertaining to the AD is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: This AD, applicable to certain Cessna Model T303 airplanes, is necessary because there is a possibility that the fuel metering unit tee fitting, located at the rear of each engine, may be leaking fuel into the engine compartment. The National Transportation Safety Board (NTSB) initially reported to the FAA that their investigation of recent Model T303 accident showed evidence of an inflight engine fire due to both a cracked engine fuel metering unit tee fitting and exhaust leakage from the turbocharger.

However, the FAA determined from subsequent investigation of the accident wreckage that equally strong evidence exists that the reported fire may have occurred after the airplane impacted the ground. The NTSB has acknowledged this subsequent evidence and is investigating. In addition, the information currently available may not fully substantiate that an exhaust leak contributed to the cause of this particular accident. The NTSB and the FAA are continuing to investigate the circumstances of this accident but in the interest of aviation safety, the FAA determined that an immediate inspection of the exhaust system and the tee fitting was warranted to preclude the possibility of a fire in this area. Therefore, AD 85-23-06 was issued via priority mail requiring a one time inspection for evidence of exhaust leakage and a leak check of the engine fuel metering unit tee fittings on Cessna Model T303 airplanes.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated November 14, 1985. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 85-23-06. Since the unsafe condition described herein may still exist on other Cessna Model T303 airplanes, the AD is hereby published in the *Federal Register* as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the priority letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive 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 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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 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.

2. By adding the following new AD:

Cessna: Applies to Model T303 (Serial Numbers T30300001 thru T30300315) airplanes certificated in any category. Compliance: Required within the next 10 hours time-in-service from the effective date of this AD, unless already accomplished. To preclude the possibility of the fuel metering unit tee fittings from leaking and causing a fire, accomplish the following:

(a) Remove both engine cowlings to the extent required to adequately examine the turbocharger inlet area and fuel metering units. Visually inspect the turbocharger inlet and surrounding area for evidence of significant damage caused by exhaust gas leakage. If noted, prior to future flight, repair the damage and eliminate the cause of the leak.

(b) With the aircraft auxiliary fuel pumps on and the mixture control in the idle cutoff position, visually inspect the fuel metering unit tee fitting for cracking and leakage in the threaded area that goes into the fuel metering unit. If a crack and resultant leak is detected, prior to further flight replace the fitting, using a wrench on the fitting, to isolate the effects of attaching and tightening the fuel lines. Do not over torque the fitting when installing it on the metering unit.

(c) The aircraft may be flown in accordance with the FAR 21.197 to a location where this AD can be accomplished.

(d) Within five (5) days of accomplishing this AD, report, in writing, all defects found during accomplishment of this AD to the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. (Reporting approved by the Offices of

Management and Budget under OMB No. 2120-0056).

(e) An equivalent method of compliance may be used when approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective on February 5, 1986, to all persons except those persons to whom it has already been made effective by priority letter from the FAA dated November 14, 1985, and is identified as AD 85-23-06.

Issued in Kansas City, Missouri, on January 21, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-2185 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ANE-48; Amdt. 39-5209]

Airworthiness Directives; Hamilton Standard Model 54H60-77, -81, -123, -125, -131, -133 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement of certain P/N valve housing cover input gears on Hamilton Standard 54H60 series propellers. The AD is needed to prevent slippage of the gears which could result in improper blade schedule during ground operation, inability to feather during electrical power loss, high negative torques, power lever binding, and possible overspeed at, or slightly above, flight idle position.

DATES: Effective January 31, 1986.

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

Incorporation by Reference—Approved by the Director of the Federal Register effective January 31, 1986.

ADDRESSES: The applicable alert service bulletin (ASB) may be obtained from: Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096.

A copy of the ASB is contained in the Rules Docket, Office of the Regional Counsel, Attn: Rules Docket 85-ANE-48, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, Aircraft Certification Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7079.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain propeller control lever input gears have been improperly machined. The improper machining can cause misassembly with the mating gears. If misassembled, slippage of the propeller control lever can occur. Slippage can result in loss of propeller control input datum. This may cause the propeller to be inadvertently put into the ground handling pitch range with possible overspeed when pulling the power lever toward flight idle. In addition, during an increase in power, the propeller can be inadvertently feathered. Both conditions can lead to loss of aircraft control with possible loss of aircraft. Therefore an immediate adopted rule is being issued which requires functional checks and replacement of the propeller valve housing cover input gear on certain model 54H60 propellers.

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

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 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 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

Propellers, Engines, Air transportation, Aircraft, Aviation safety. Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 1345(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 to § 39.13.

Hamilton Standard: Applies to Hamilton Standard model 54H60-77, -81, -123, -125, -131, and -133 propellers with propeller control S/N 850901 or lower installed on, but not limited to, CV580, L188 and Guppy aircraft.

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

To prevent loss of aircraft control and possible loss of aircraft, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, conduct a functional check of the propeller valve housing cover input gear in accordance with Hamilton Standard 54H60 ASB No. 61-A119, Paragraph 2.A dated December 10, 1985, or FAA-approved equivalent.

(1) If the application of less than 36 pounds of load causes slippage of the input lever, remove the valve housing cover assembly prior to further flight.

(2) If 36 to 38 pounds can be maintained without slippage of the input lever, mark the valve housing cover in accordance with Paragraph 2.D.(1) and return to service.

(b) At the next component maintenance/propeller after completing the above functional check or by January 15, 1986, whichever occurs sooner, inspect the valve housing cover in accordance with Paragraphs 2.B and 2.C of 54H60 ASB No. 61-A119. Remove from service all input gears with change letter "G" indicated and replace with a serviceable gear. Mark the valve housing cover in accordance with Paragraph 2.D.(2).

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine and Propeller Standards Staff, ANE-110, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine and Propeller Standards Staff may adjust the compliance time specified in this AD.

Hamilton Standard 54H60 ASB No. 61-A119, dated December 10, 1985, is 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 this

document from the manufacturer may obtain copies upon request to Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096. This document also may be examined at the Office of the Regional Counsel, Attn: Rules Docket 85-ANE-48, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amended becomes effective on January 31, 1986.

Issued in Burlington, Massachusetts, on December 24, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-2186 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-25]

Alteration of Transition Area; Shelbyville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the Shelbyville, Illinois, transition area to accommodate a proposed NDB-A Standard Instrument Approach Procedure (SIAP) to Shelby County Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 GMT, May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, December 10, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Shelbyville, Illinois, transition area (50 FR 50310).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Expect for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Shelbyville, Illinois, transition area to accommodate a proposed NDB-A SIAP to Shelby County Airport.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation of Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Shelbyville, Illinois

That airspace extending upward from 700 feet above the surface, within a 5 mile radius of Shelby County Airport (lat. 39°24'44" N., long. 88°50'38" W.) and within 3 miles west to 3.5 miles east of the 186° bearing from the Shelbyville (SYZ) NDB facility extending from the 5 mile radius area to 8.5 miles south.

Issued in Des Plaines, Illinois, on January 21, 1986.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 86-2174 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-5]

Amendment to Douglas, WY, Transition Area

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

ACTION: Final rule.

SUMMARY: The nature of this action is to amend the 700' transition area at Douglas Wyoming. This action is necessary due to the relocation of the Converse County Airport, Douglas, Wyoming. This action will ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions. The area will be depicted on aeronautical charts enabling pilots to circumnavigate the area or otherwise comply with instrument flight rules.

EFFECTIVE DATE: 0901 GMT, March 13, 1986.

FOR FURTHER INFORMATION CONTACT:

Bob Brown, Airspace & Procedures Specialist, ANM-534, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone (206) 431-2530.

SUPPLEMENTARY INFORMATION:

History

On Monday, July 15, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700' transition area for Douglas, Wyoming (50 FR 28590).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Douglas, Wyoming 700' transition area. This action is necessary due to the relocation of the Converse County Airport, Douglas, Wyoming.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is

not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Douglas, Wyoming, Transition Area [Amended]

That airspace extending upward from 700' above the surface within a 10.5 mile radius of the Converse County Airport, Douglas, Wyoming, (lat. 42°47'46" N./long. 105°23'08" W.); and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at a point at (lat. 43°28'30" N./long. 104°30'00" W.), east to the Wyoming-Nebraska State boundary, south to the north edge of V-100, west to the west edge of V-19, northwest to (lat. 42°27'30" N./long. 105°52'05" W.); thence to point of beginning, excluding the Casper, Wyoming, and Cheyenne, Wyoming, transition areas.

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

Wayne J. Barlow,

Director, Northwest Mountain Region (Acting).

[FR Doc. 86-1869 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1209

Boards and Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1209 by revising Subpart 4, "Inventions and Contributions Board," to reflect the change in the Board's responsibilities with regard to patent licenses pursuant to 14 CFR Part 1245 Subpart 2, "Licensing of NASA Inventions." Since this action is internal and administrative in nature and does not affect the existing regulations, notice and public comment are not required.

EFFECTIVE DATE: January 31, 1986.

ADDRESS: Chairperson, Inventions and Contributions Board, Code NB, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Joseph Labow, 202-453-2892. The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 C.F.R. Part 1209

Board of Contract Appeals,
Organizations and functions,
Government agencies.

PART 1209—BOARDS AND COMMITTEES

14 CFR Part 1209 is amended by revising Subpart 4 to read as follows:

Subpart 4—Inventions and Contributions Board

Sec.

- 1209.400 Scope.
- 1209.401 Establishment.
- 1209.402 Responsibilities.
- 1209.403 Organizational location.
- 1209.404 Membership.
- 1209.405 Supporting services.

Authority: 42 U.S.C. 2457(f) and 2458.

Subpart 4—Inventions and Contributions Board**§ 1209.400 Scope.**

This Subpart describes the functions, authority, and membership of the NASA Inventions and Contributions Board (hereafter referred to as "the Board").

§ 1209.401 Establishment.

Pursuant to the authority of the National Aeronautics and Space Act of 1958 as amended (42 U.S.C. 2457(f) and 2458) and the Government Employees Incentive Awards Act of 1954 (5 U.S.C.

4501-6), the Board was established on December 4, 1958, and is further continued in effect by this Subpart 4.

§ 1209.402 Responsibilities.

(a) *Waiver of rights in inventions.* Under the authority of 42 U.S.C. 2457(f) and pursuant to 14 CFR Part 1245 Subpart 1 (NASA Management Instruction 5109.2), the Board will receive and evaluate petitions for waiver of rights of the United States to inventions, accord each interested party an opportunity for a hearing, and transmit to the Administrator its findings of fact as to such petitions and its recommendations for action to be taken with respect thereto.

(b) *Patent licenses.* Under the authority of 35 U.S.C. 207(b) and pursuant to 14 CFR Part 1245 Subpart 2 (NASA Management Instruction 5109.3), the Board will accord a licensee or applicant for license an opportunity for a hearing with respect to an appeal which raises a dispute over material facts and will be responsible for making findings of fact and forwarding them to the Administrator or designee.

(c) *Monetary awards for scientific and technical contributions.* (1) Under the authority of 42 U.S.C. 2458 and pursuant to 14 CFR Part 1240 (NASA Management Instructions 5700.1 and 5700.3), the Board will receive and evaluate each application for award for any scientific or technical contribution to the Administration which is determined to have significant value in the conduct of aeronautical and space activities, will accord each applicant an opportunity for a hearing upon such application, and will then transmit to the Administrator its recommendation as to the amount of the monetary award and terms of the award, if any, to be made for such contribution.

(2) If the contribution is made by a Government employee, the Board is also authorized to consider such contribution for award under the incentive awards program and to make an award, if any, on its own cognizance, up to the amount of \$10,000 in accordance with NASA supplements to Chapter 451 of the Federal Personnel Manual covering this subject.

§ 1209.403 Organizational location.

The Board is established within the Office of Management.

§ 1209.404 Membership.

(a) The Board will consist of a full-time Chairperson and at least six members appointed by the Administrator from within NASA. One

of the members will be designated by the Chairperson as Vice-Chairperson. The Chairperson is responsible directly to the Administrator.

(b) The Chairperson of the Board is appointed for an unlimited period. All other Board members normally will be appointed initially for a period of 3 years. The Chairperson is authorized to extend the initial appointment of any Board member for an additional period of service. If a member resigns or is otherwise unable to participate in the Board's activities, a replacement may be appointed for the remainder of the uncompleted term and, with the approval of the Chairperson, may be appointed for a full 3-year term upon the expiration of the original term. This procedure will provide the Board with a continual infusion of new members with a variety of professional backgrounds and interests. Duties performed by the members of the Board will be in addition to their regular duties.

(c) The Chairperson is authorized to:

(1) Assemble the Board as required to discharge the duties and responsibilities of the Board;

(2) Establish such panels as may be considered necessary to discharge the responsibilities and perform the functions of the Board; and

(3) Issue implementing rules and procedures, and take such other actions as are necessary to perform the Board's functions.

§ 1209.405 Supporting services.

(a) The staff of the Board is established to assist the Board in discharging its functions and responsibilities. The staff will:

(1) Prepare analyses of petitions for waiver of rights to inventions for the consideration of the Board;

(2) Prepare evaluation of proposed awards;

(3) Document Board actions; and

(4) Perform such other functions as may be required.

(b) A full-time director of the staff will serve as a nonvoting member of the Board, and will direct the activities of the staff of the Board.

(c) The director of the staff of the Board will report to the Chairperson of the Board.

William R. Graham,
Acting Administrator.

January 22, 1986.

[FR Doc. 86-2131 Filed 1-30-86; 8:45 am]

BILLING CODE 7510-01-M

14 CFR Part 1240**Inventions and Contributions**

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1240 by revising Subpart 2. "Awards for Reported Scientific and Technical Contributions—NASA and Contractor Employees," in order to effect an increase in the amount of initial awards.

The regulations for the granting of monetary awards to employees of NASA and employees of NASA contractors for reported scientific and technical contributions are revised as follows:

1. Initial awards for the filing of U.S. patent applications and for the publication of NASA Tech Briefs are increased to agree with the amounts being granted under current operating procedures, i.e., at least \$500 and \$150, respectively.

2. Designees of the Administrator authorized to grant to inventors and innovators monetary awards of \$1,000 or less are the Associate Administrator for Management, or the Chairperson, Inventions and Contributions Board.

Since this requirement is administrative in nature and does not affect existing regulations, notice and public comment are not required.

EFFECTIVE DATE: January 31, 1986.

ADDRESS: Chairperson, Inventions and Contributions Board, Code NB, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Joseph Labow, 202-453-2892. The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subject in 14 CFR Part 1240

Inventions and Contributions Board, Monetary awards: Inventions and patents, Monetary awards: Scientific and technical contributions, Space Act monetary awards program, Decorations, medals, awards, Government contracts, Inventions and patents.

PART 1240—INVENTIONS AND CONTRIBUTIONS

14 CFR Part 1240 is amended by revising Subpart 2 to read as follows:

Subpart 2—Awards for Reported Scientific and Technical Contributions—NASA and Contractor Employees

Sec.

1240.200	Scope.
1240.201	Applicability.
1240.202	Policy.
1240.203	General procedures.
1240.204	Presentation of awards.
1240.205	Financial accounting.
1240.206	Delegation of authority.

Authority: Section 306 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2458).

Subpart 2—Awards for Reported Scientific and Technical Contributions—NASA and Contractor Employees**§ 1240.200 Scope.**

This Subpart outlines the present policy and revises the procedures for granting monetary awards to employees of NASA and employees of NASA contractors for scientific and technical contributions which are reported to NASA, and are determined to have significant value in the conduct of aeronautical and space activities.

§ 1240.201 Applicability.

This Subpart relates to the granting of monetary awards for any scientific or technical contribution which is a significant development that:

- (a) Advances the state of knowledge in space or aeronautical activities; or
- (b) Is the subject of a United States patent application that has been authorized for filing by NASA; or
- (c) Is the subject of a selected NASA Tech Brief that has been approved for publication.

§ 1240.202 Policy.

Monetary awards are authorized and will be made to employees of NASA and employees of NASA contractors for a scientific or technical contribution to NASA, whether patentable or not, upon a determination that the contribution is of significant value in the conduct of aeronautical and space activities.

§ 1240.203 General procedures.

(a) A NASA Headquarters office, a NASA field installation, or a NASA contractor will submit to the Inventions and Contributions Board (hereafter referred to as "the Board") an application for an award identifying the originator(s) of any scientific or technical contribution conceived or developed during the performance of a

NASA program or contract, and which is considered to be of value in advancing the state of knowledge in space or aeronautical activities, whether or not the contribution is the subject of a NASA Tech Brief or of a U.S. patent application. The Board will recommend an award for such contribution when, upon evaluation of its scientific and technical merits, it is determined to warrant an award of at least \$250. Following determination of the specific amount of an award by the Board, its recommendation in that amount will be submitted to the Administrator or designee for approval. If two or more persons are the originators of the contribution, the Board will recommend the amount to be awarded to each person.

(b) When the Board receives written notice (NASA Form 1548) that the Assistant General Counsel for Patent Matters at NASA Headquarters or the cognizant Patent Counsel at a NASA field installation has authorized the filing of a U.S. patent application for an invention made and reported by an employee of NASA or an employee of a NASA contractor, the Board will recommend to the Administrator or designee that an initial award of at least \$500 be granted to a sole inventor, and an award in the amount of at least \$250 will normally be granted to each of joint inventors. The Board is authorized to recommend a supplemental monetary award in an amount that will be based on the evaluation of the technical and commercial merits of the invention.

(c) When the Board receives written notice (NASA Form 1546) that the Technology Utilization Officer at a NASA field installation has approved for publication a selected NASA Tech Brief based on an innovation made and reported by an employee of NASA or a NASA contractor, the Board will recommend to the Administrator or designee that an initial award of at least \$150 be granted, and an award in at least that amount will be granted to each originator of the innovation. The Board is authorized to recommend a supplemental monetary award in an amount that will be based on the evaluation of the technical and commercial merits of the innovation.

(d) When a selected NASA Tech Brief has been approved for publication and the filing of a U.S. patent application has been authorized for the same contribution, the initial awards authorized in paragraphs (b) and (c) of this section will be cumulative.

(e) Award authorized in paragraphs (a), (b), and (c) of this section will not be granted to a contributor who has

previously received full compensation for, or on account of, the use of such a contribution by the United States.

(f) If a contribution, as first reported and evaluated, is judged not to merit a supplemental award, as provided for in paragraph (a), (b), or (c) of this section, and the contribution is later proved to be of significant value, it may be submitted for reevaluation. Responsible NASA and NASA contractor officials are encouraged to review periodically such reported contributions, and to resubmit them for reconsideration through the same channels as originally reported.

§ 1240.204 Presentation of awards.

(a) Monetary awards and accompanying written acknowledgments to employees of NASA will be presented in a formal ceremony by the appropriate Official-in-Charge at the Headquarters Office, or by the Director of the cognizant field installation or designee.

(b) Monetary awards and accompanying written acknowledgments to employees of NASA contractors will be forwarded to contractor officials for suitable presentation.

§ 1240.205 Financial accounting.

(a) An Award Check Receipt (NHQ DIV Form 622), which accompanies the transmittal of each group of award checks from the Board, will be dated and signed by the responsible Award Liaison Officer/Technology Utilization Officer and returned to the Board without delay.

(b) Not later than December 10 of each year, the responsible field installation official will submit a report certifying that all award checks, which were issued and received by the field installation during the year, have been delivered to the proper employees of NASA and employees of NASA contractors. In the case of those checks that have not been delivered by December 10, the certification report will be accompanied by all undelivered checks and a brief explanation of the reasons for the failure to make delivery. This annual certification report is essential in order to assure that income and withholding tax totals for all awardees are correct and complete at the close of each calendar year.

§ 1240.206 Delegation of authority.

(a) The Associate Administrator for Management is delegated authority to execute grants of awards for significant scientific or technical contributions not exceeding \$1000 per contributor, when in accordance with the recommendation

of the Board and in conformity with applicable law and regulations.

(b) The Chairperson, Inventions and Contributions Board, is delegated authority to execute grants of initial awards upon the decision to file for a U.S. patent application, and upon approval to publish a selected NASA Tech Brief.

(c) No redelegation is authorized except by virtue of succession.

(d) The Chairperson, Inventions and Contributions Board, will ensure that feedback is provided so that the Administrator, through official channels, is currently informed of significant actions, problems, or other matters of substance related to the exercise of the authority delegated in this section.

William R. Graham,
Acting Administrator,

January 22, 1986.

[FR Doc. 86-2133 Filed 1-30-86; 8:45 am]

BILLING CODE 7510-01-M

14 CFR Part 1240

Inventions and Contributions; Awards Criteria and Reconsideration

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1240 by revising Subpart 1, "Awards for Scientific and Technical Contributions" to clarify the criteria for awards, and to establish procedures for reconsideration and oral hearing by applicants for awards.

EFFECTIVE DATE: January 31, 1986.

ADDRESS: Chairperson, Inventions and Contributions Board, Code NB, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Joseph Labow, 202-453-2982.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration had determined that: 1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1240

Inventions and Contributions Board, Monetary awards— inventions and patents, Monetary awards—scientific and technical contributions, Space Act monetary awards program, Decorations, Medals, Awards, Government contracts, Inventions and patents.

PART 1240—INVENTIONS AND CONTRIBUTIONS

14 CFR Part 1240 is amended by revising Subpart 1 to read as follows:

Subpart 1—Awards for Scientific and Technical Contributions

Sec.

1240.100. Purpose.

1240.101. Scope.

1240.102. Criteria.

1240.103. Applications for awards.

1240.104. Review and evaluation of contributions.

1240.105. Notification by the Board.

1240.106. Reconsideration.

1240.107. Hearing procedure.

1240.108. Recommendation to the Administrator.

1240.109. Release.

Authority: Secs. 305 and 306, National Aeronautics and Space Act, as amended (42 U.S.C. 2457 and 2458).

Subpart 1—Awards for Scientific and Technical Contributions

§ 1240.100 Purpose.

This subpart prescribes procedures for the granting of monetary awards by the Administrator of NASA for scientific and technical contributions which have significant value in the conduct of aeronautical and space activities.

§ 1240.101 Scope.

This subpart applies to any scientific or technical contribution which is determined by the Administrator to have significant value in the conduct of aeronautical and space activities for which an application for award has been submitted to NASA.

§ 1240.102 Criteria.

(a) Only those contributions to the Administration which have been (1) used in a NASA program or adopted or sponsored or supported by NASA, and (2) found to have significant value in the conduct of aeronautical and space activities, will be recommended for award under this subpart.

(b) In determining the terms and conditions of any award, the following criteria will be considered:

(1) The value of the contribution to the United States;

(2) The aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) The amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contributions by the United States; and

(4) Such other factors as the Administrator shall determine to be material.

§ 1240.103 Applications for awards.

(a) *Eligibility.* Applications for award may be submitted by any person including any individual, partnership, corporation, association, institution, or other entity.

(b) *Information required.* Applications for award should be addressed to the Inventions and Contributions Board (herein referred to as the Board), National Aeronautics and Space Administration, Washington, D.C. 20546, and will contain:

(1) The name and address of the applicant, the person's relationship to the contributor if the contribution is made by one other than the applicant, and the names and addresses of any others having an interest in the contribution;

(2) A complete written description of the contribution, in the English language, accompanied by drawings, sketches, diagrams, or photographs illustrating the nature of the contribution and the technical and scientific principles upon which it is based, any available test or performance data or observations of pertinent scientific phenomena, and the aeronautics or space application of the contribution;

(3) The date and manner of any previous submittal of the contribution to any other United States Government agency, and the name of such agency;

(4) The aggregate amount of any sums which have been expended by the applicant for the development of the contribution;

(5) The nature and extent of any known use of the contribution by the United States and by any agency of the United States Government;

(6) The Amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States;

(7) Identification of any United States and foreign patents applied for or issued relating to the contribution; and

(8) An agreement to surrender all claims which such applicant may have for the use of such contribution by the Government.

(c) *General.* (1) Each contribution will be made the subject of a separate application in order that each contribution may be evaluated individually.

(2) Material constituting a possible hazard to safety or requiring unusual storage facilities should not be

submitted, and will not be accepted. Models or intricate exhibits demonstrating the contribution will not be accepted unless specifically requested by the Board. In those few cases where such models or exhibits have been submitted pursuant to a request made by the Board, the same will be returned to the applicant upon written request from the applicant.

(3) It is the policy of the Board to use or disclose information contained in applications for awards for evaluation purposes only. Applications for awards submitted with restrictive legends or statements differing from this policy will be treated in accordance with the Board's policy.

§ 1240.104 Review and evaluation of contributions.

(a) A contribution will be initially reviewed by the Board on the basis of the material submitted by the applicant under § 1240.103(b).

(b) If it is determined that the contribution has been used in a NASA program, or adopted or sponsored or supported by NASA, the contribution will be evaluated for its significant value in the conduct of aeronautical or space activity.

§ 1240.105 Notification by the Board.

With respect to each complete application, the Board will notify the applicant:

(a) Where the Board has recommended to the Administrator the granting of an award, and the Administrator has approved such award, the amount and terms of the award, together with a statement of the reasons for such recommendation;

(b) Where the Board does not propose to recommend to the Administrator the granting of an award and include a brief statement of the reasons for such decision.

§ 1240.106 Reconsideration.

(a) In those cases where the Board does not recommend an award, the applicant may, within such period as the Board may set but in no event less than 30 days from notification, request reconsideration of the Board's decision.

(b) If reconsideration has been requested within the prescribed time, the applicant will, within 30 days from the date of the request for reconsideration, or within any other time as the Board may set, file its statement setting forth the issues, points, authorities, arguments, and any additional material on which it relies.

(c) Upon filing of the reconsideration statement by the applicant, the case will be assigned for reconsideration by the

Board upon the contents of the application, the record, and the reconsideration statement submitted by the applicant.

(d) If after reconsideration, the Board again does not propose to recommend the granting of an award, the applicant, after such notification by the Board, may request an oral hearing within the time set by the Board.

§ 1240.107 Hearing procedure.

(a) Oral hearings held by the Board will be in accordance with the following procedures:

(1) If the applicant requests a hearing within the time set in accordance with § 1240.106(d), the Board will set a place and date for such hearing and notify the applicant.

(2) The applicant may be represented by attorneys or any other appropriately designated persons.

(3) Hearings will be open to the public unless the applicant requests that a closed hearing be held.

(4) Hearings may be held before the full membership of the Board or before any panel of Board members designated by the Chairperson.

(5) Hearings will be conducted in an informal manner with the objective of providing the applicant with a full opportunity to present evidence and arguments in support of the application. Evidence may be presented through means of such witnesses, exhibits, and visual aids as are arranged for by the applicant. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the applicant, and the Board may, at its option, utilize the assistance of technical advisors or other experts.

(6) Subject to the provisions of § 1240.103(c)(2), the applicant will submit a copy of any exhibit or visual aid utilized unless otherwise directed by the Board. The Board may, at its discretion, arrange for a written transcript of the proceedings and a copy of such transcript will be made available by the recorder for purchase by the applicant.

(7) No funds are available to defray traveling expenses or any other cost incurred by the applicant.

§ 1240.108 Recommendation to the Administrator.

Upon a determination by the Board that a contribution merits an award, the Board will recommend to the Administrator the terms and conditions of the proposed award. The recommendation of the Board to the Administrator will reflect the views of

the majority of the Board members. Dissenting views may be transmitted with the majority opinion.

§ 124.109 Release.

Under subsection 306(b)(1) of the National Aeronautics and Space Act of 1958, as amended, no award will be made to an applicant unless the applicant submits a duly executed release, in a form specified by the Administrator, of all claims the applicant may have to receive any compensation (other than the award recommended) from the United States Government for use of the contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any existing or future treaty or agreement with the United States, within the United States or at any other place.

William R. Graham,
Acting Administrator.

January 22, 1986.

[FR Doc. 86-2132 Filed 1-30-86; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9089]

Atlantic Richfield Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: The Federal Trade Commission has set aside a 1979 order with Atlantic Richfield Co. (ARCO), so that the company is no longer required to divest its half interest in Anamax, a joint venture. The Commission cited developments in the copper industry as rendering the Anamax divestiture and the original order unnecessary.

DATES: Order issued Oct. 29, 1979. Set Aside Order issued Dec. 30, 1985.

FOR FURTHER INFORMATION CONTACT: Elliot Feinberg, FTC/L-301, Washington, DC 20580. (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Atlantic Richfield Company, a corporation. The prohibited trade practices and/or corrective actions, as set forth at 44 FR 67643, are deleted.

List of Subjects in 16 CFR Part 13

Copper, Trade practices.

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

United States of America

Before Federal Trade Commission

Order Terminating Decision and Order Issued October 29, 1979

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga.

In the Matter of Atlantic Richfield Company, a corporation; Docket No. 9089.

On August 30, 1985, Atlantic Richfield Company ("Arco") filed its "Request To Reopen And Set Aside Consent Order" ("Request"). The Request was submitted pursuant to Paragraphs XV and XVI of the Commission's Decision and Order issued on October 29, 1979, ("the Order") and also pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and § 2.51 of the Commission's Rules of Practice. The Request asked the Commission to reopen the proceeding and terminate the Order in its entirety. After reviewing respondent's Request and other relevant information, the Commission has concluded that Arco has made a satisfactory showing that changed conditions of fact and public interest considerations require that the Order be terminated.

This proceeding arose out of Arco's merger with The Anaconda Company ("Anaconda") in 1976. The complaint was issued under section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act and charged that Arco's acquisition of Anaconda would eliminate three forms of competition: (1) Actual competition between Arco and Anaconda in the production and sale of uranium oxide; (2) potential competition between Arco and producers of uranium oxide, including Anaconda; and (3) potential competition between Arco and producers of copper, including Anaconda, in copper mine production and in the production and sale of refined copper. At the time the complaint was issued, Arco, in addition to being a petroleum company, was a producer of uranium oxide through a joint venture operating in Clay West, Texas, with Niagara Mohawk Power Company and United States Steel Corporation. Anaconda was both a producer of uranium oxide and a miner and refiner of copper.

On November 2, 1976, a hearing was held in the United States District Court for the Eastern District of Virginia on the Commission's motion for a preliminary injunction against the merger pending completion of the Commission's administrative lawsuit. On the same day, Arco announced a plan to sell its interest in the Clay West uranium joint venture to Niagara Mohawk and United

States Steel. Later that day the district court denied the Commission's motion. The sale of Arco's Clay West interest was consummated on December 6, 1976. Thereafter, on January 12, 1977, the United States Court of Appeals for the Fourth Circuit affirmed the judgment of the district court, and the merger was consummated later that same day. *FTC v. Atlantic Richfield Company*, 549 F.2d 289 (4th Cir. 1977). The Commission's administrative proceeding continued and the parties subsequently entered into settlement negotiations. On October 29, 1979, the Commission issued its Order in this matter.

The Order required the divestiture of five specified copper interests that had been owned by Anaconda at the time it was acquired by Arco. These interests were the Heddleston copper and molybdenum mineral property; the Ann Mason copper mineral property; the Bear copper mineral property; its 20 percent stock holding in Inspiration Consolidated Copper Company; and its 50 percent joint venture interest in the Anamax Mining Company ("Anamax"), a copper miner and producer of copper concentrate and electrowon refined grade copper. The time allowed for Arco to accomplish divestiture ranged from a minimum of one year for the Inspiration stock to five years for the Anamax interest. The Order also imposed an acquisition ban and joint venture restrictions on Arco during a "limitation period" defined in the Order. The limitation period was to expire after five years (on October 29, 1984), but was subject to a proviso extending the period for as much as an additional five years if the required divestitures had not been completed in accordance with a specified timetable.

Arco has accomplished all of the divestitures required by the Order with the exception of its interest in Anamax. Arco sold its interest in Inspiration Consolidated Copper Company prior to issuance of the Order. The Ann Mason and Bear properties were sold on August 25, 1981. The Heddleston property was sold to Asarco with the prior approval of the Commission as required by the Order in September 1981. Since Arco did not divest its interest in Anamax within four years of the effective date of the Order, the limitation period has yet to expire.

Respondent has established that there have been significant changes in the factual circumstances that prevailed at the time the complaint and Order issued so that it is now appropriate to terminate the Order. These changes include a decline in the market position of United States copper producers in

general; a decline in the scope of Arco's copper operations; and a sharp curtailment in the copper operations of Anamax.

Perhaps the most significant development since the Order issued has been the inability of U.S. copper producers to sustain the two-tier pricing system which historically kept the U.S. price substantially above the price of copper sold outside the United States. Request, pp. 23-24. Imports of refined copper accounted for 27 percent of domestic refined copper consumption in 1983 as compared with 10 percent in 1979 and 9 percent in 1975. Request, p. 25 and Table I. The major exporting nations have kept producing at high levels while United States producers have been forced to cut back output. According to the International Trade Commission

In a broad sense, the copper market is a world market. Both tariffs and transportation costs are small compared with the value of copper. As a result, arbitrage keeps the price of copper relatively the same throughout the world.

ITC, *Unwrought Copper: Report to the President on Investigation No. TA-201-52 Under Section 201 of the Trade Act of 1974* at A-56 (July 1984) (hereinafter "ITC Report"). U.S. producers "have no choice but to follow the depressed and declining world price of copper." ITC Report at 43-44. According to the ITC

The current depressed state of the domestic copper industry reflects existing world market conditions and, therefore, is predominantly due to the low level of world prices which are transmitted to the U.S. industry through imports. Current world prices have been driven low by a combination of world overproduction and a decline in demand. In particular, a number of developing countries, with copper as their main source of foreign exchange, are continuing to produce and market increasing quantities of copper despite a worldwide glut, with plans to expand capacity even further in the near future.

ITC Report at 6-7. A substantial number of domestic copper production facilities have been permanently closed since 1979. ITC Report at A-22, A-23.

These developments have also had a significant adverse effect on Arco's own copper operations. In the period since the Order was issued Arco has shut down all of its wholly-owned copper mines and has closed and scrapped its copper smelter and copper refinery. Apart from its interest in Anamax, respondent has not produced refined copper since the fall of 1980 and has not mined copper since June 1983. Arco has written down all of its copper and other non-coal mineral operations and is in the process of permanently exiting from

these businesses. Request, p. 3. Likewise, the Anamax copper operations have been sharply curtailed. The only active Anamax copper operation is the processing of stockpiled copper oxide ore at the Twin Buttes oxide plant. Request, p. 36. In the opinion of the Commission, the developments referred to above have rendered the divestiture of Arco's interest in Anamax unnecessary and have also made it appropriate to terminate the restriction on acquisitions and joint ventures imposed by the Order.

Accordingly, it is ordered that this matter be, and it hereby is, reopened, and that the Commission's Decision and Order issued on October 29, 1979, shall terminate as of the effective date of this order.

By the Commission.

Issued: December 30, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 86-2152 Filed 1-30-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-2965]

General Mills Fun Group, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: The Federal Trade Commission has released General Mills, Inc. from its responsibilities under a 1979 consent order that prohibited misrepresentations in advertising by its toy producing subsidiary, but has said the order remains binding on the subsidiary's successor. (44 FR 37200) General Mills intends to spin off its toy-producing subsidiary, General Mills Fun Group, Inc., as an independent company called Kenner Parker Toys, Inc., and has no intention of reentering the toy business following the corporate action.

DATES: Consent Order issued May 15, 1979. Modifying Order issued Dec. 11, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas D. Massie, FTC/B-425, Washington, DC 20580, (202) 376-2891.

SUPPLEMENTARY INFORMATION: In the Matter of General Mills Fun Group, Inc. The prohibited trade practices and/or corrective actions, as set forth at 44 FR 37200, remain unchanged.

List of Subjects in 16 CFR Part 13

Advertising, Toys, Trade practices.

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

United States of America Before Federal Trade Commission

Order Reopening the Proceeding and Modifying Cease and Desist Order

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga.

In the matter of General Mills Fun Group, Inc.; Docket No. C-2965.

On September 20, 1985, General Mills, Inc.'s (Petitioner) request to reopen and modify the consent order entered against General Mills Fun Group, Inc. (respondent) by the Commission on May 15, 1979, in the above-captioned matter was placed on the public record for 30 days pursuant to Rule 2.51(c) of the Commission's Procedures and Rules of Practice. That order proscribes representing the performance, operation, use, size, or appearance of toys or related products which (1) cannot be duplicated by children in ordinary use; or (2) through the use of any commercial production technique misrepresents to children these characteristics, or (3) fails to disclose the need for human or mechanical assistance, when such failure, in the context of the advertisement as a whole, misrepresents to children such toy's performance or operation. Part III of that order applies the same proscriptions against Petitioner if it should engage in the advertising of toys, directly or through a subsidiary other than respondent. A second provision of Part III would make Petitioner liable for any penalties or other legal or equitable relief under the order if for any reason respondent or other subsidiary advertising toys while owned by Petitioner is not amenable to suit or execution of full judgment.

The respondent, General Mills Fun Group, Inc., through a series of name changes has become Kenner Parker Toys Inc. (Kenner Parker or respondent). On November 7, 1985, Petitioner spun-off Kenner Parker as a free-standing corporate entity that is now independent of Petitioner through a distribution of Kenner Parker's stock to Petitioner's stockholders of record. The newly independent Kenner Parker, with fiscal 1985 sales of \$638 million and assets of \$499 million, will be one of the largest toy companies in the world. As a result of this spin-off, Petitioner will no longer be engaged in the toy business and has stated that it has no present intent to reenter that business in the future. In addition, Petitioner is not in a position to oversee either the management or

advertising of respondent Keener Parker, formerly General Mills Fun Group, Inc. As a consequence of the foregoing, Petitioner requests that it be relieved of its responsibilities under the order by the setting aside of Part III.

Upon consideration of Petitioner's request and supporting materials, and other relevant information, the Commission finds pursuant to Rule 2.51 of the Commission's Procedures and Rules of Practice, 16 CFR 2.51 that changed conditions of fact and the public interest warrants reopening and modification of the order in the manner requested. In doing so, the Commission notes that Kenner Parker, as a successor corporation, remains bound by the terms of the order and that a specific covenant to that effect was contained in the transfer documents between Petitioner, General Mills, Inc., and Kenner Parker.

It is therefore ordered, that the proceeding is hereby reopened and the order issued May 15, 1979 in Docket No. C-2965 as hereby modified by setting aside Part III thereof.

By direction of the Commission.

Issued: December 11, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 86-2154 Filed 1-30-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3167]

Hospital Corp. of America; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: The Federal Trade Commission has approved Hospital Corp. of America's proposed divestiture of a hospital in Midland, Texas, to ClayDesta Corp. The Commission also modified the 1985 consent order requiring the divestiture, so that HCA may retain the land that is the location for a planned hospital in Midland. (50 FR 42010.)

DATES: Consent Order issued Sept. 30, 1985. Modifying Order issued Dec. 16, 1985.

FOR FURTHER INFORMATION CONTACT: Daniel P. DuCore, FTC/L-301, Washington, DC 20580, (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of Hospital Corporation of America, a corporation. The prohibited trade practices and/or corrective actions, as set forth at 50 FR 42010, remain unchanged.

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

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

United States of America Before Federal Trade Commission

Order Modifying Cease and Desist Order Issued on September 30, 1985

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga.

In the matter of Hospital Corporation of America, a corporation; Docket No. C-3167.

By a petition filed on November 12, 1985, Hospital Corporation of America ("HCA") requests that the Commission reopen the proceeding in Docket No. C-3167 and modify the order issued by the Commission on September 30, 1985, to remove a parcel of land held by Doctors' Hospital of the Permian Basin, Inc. ("Doctors' Hospital") from the assets to be divested pursuant to Paragraph II of the order. Pursuant to § 2.51 of the Commission's Rules of Practice, 16 CFR 2.51 (1985), HCA's petition was placed on the public record for comments. No comments were received.

After reviewing HCA's petition and HCA's September 26, 1985, application for approval of the divestiture of its Parkview Hospital and the planned Doctors' Hospital, the Commission has concluded that the public interest warrants reopening and modification of the order. In the context of HCA's September 26, 1985, divestiture proposal, elimination of the requirement that HCA divest the parcel of land owned by Doctors' Hospital would facilitate the proposed divestiture which, in turn, will help achieve the remedial purposes of the order. HCA proposes to divest Doctors' Hospital to ClayDesta Corporation, an acquirer who intends to locate Doctors' Hospital on a site of its own choosing within the relevant geographic market. Therefore, ClayDesta does not desire to acquire the Doctors' Hospital land.

Consequently, divestiture of the parcel of land currently owned by Doctors' Hospital is not essential to achieving the remedial goals of the order. Eliminating the requirement that HCA divest the Doctors' Hospital parcel of land, in the context of the proposed divestiture, does not appear to have any adverse competitive significance.

Accordingly,

It is ordered that this matter be, and it hereby is, reopened and that *Schedule A: Stock and Assets to be Divested*, Paragraph A 2., of the order in Docket

No. C-3167, be modified to read as follows:

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). Provided, however, that HCA need not divest the parcel of land owned by Doctors' Hospital if the acquirer of Doctors' Hospital possesses another site within the Midland/Odessa area, intends to locate the hospital at that other site and, therefore, chooses not to acquire the Doctors' Hospital land.

By direction of the Commission.

Issued: December 16, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 86-2153 Filed 1-30-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Compliance Exemptions

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS NIAGARA FALLS (AFS 3) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 8, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the

Secretary of the Navy has certified that USS NIAGARA FALLS (AFS3) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a) pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, Sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, Sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. (3)(a)	After masthead light not less than 1/2 ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS NIAGARA FALLS	AFS 3						X		97.9

Dated: January 8, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-2136 Filed 1-30-86; 8:45 am]

BILLING CODE 3610-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-6-FRL-2964-2]

Final Decision on Revisions to the State's Hazardous Waste Management Program, Texas

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on revisions to Texas' final authorization.

SUMMARY: On October 4, 1985, the Environmental Protection Agency (EPA) published an Interim Final Decision approving revisions to the State of Texas' hazardous waste management program authorized pursuant to the Resource Conservation and Recovery Act (RCRA). EPA, after providing opportunity for public comment, has finalized this decision.

EFFECTIVE DATE: Final Authorization of the revision to the Texas program was effective October 4, 1985.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, State Programs Section (6H-HS), Hazardous Waste Programs

Branch, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270. (214) 767-2645.

SUPPLEMENTARY INFORMATION: On September 4, 1985, EPA published a notice in the Federal Register (50 FR 35798) describing the changes enacted by the Sixty-Ninth Legislature for the State of Texas which impact the State's authorized hazardous waste management program. The notice also described the manner in which EPA and the State would address those changes and provided for public inspection of the State's Legislation and a draft of the State's program revision.

The Texas Legislature enacted legislation (Senate Bill 249) reorganizing the Texas Department of Water Resources (TDWR), responsible for the industrial waste management program, renaming it the Texas Water Commission (TWC) and, in addition, transferring to the TWC from the Texas Department of Health (TDH) the administration of the municipal hazardous waste program. This transfer was effective September 1, 1985.

Senate Bill 249 contains a provision (Section 10.004(f)) that the reorganization of the TDWR into the TWC does not affect or impair any act done, bonds authorized or issued, or penalty that has occurred or that exists under the authority of the TDWR as it existed before the effective date of Senate Bill 249, and those bonds, obligations, rights, permits, licenses,

standards, rules, and criteria remain in effect until such time as they are paid, recalled, changed, altered, renewed, amended, cancelled, revoked, repealed, or abolished under the water code or other State laws.

There is no provision, however, in Senate Bill 249 continuing in effect the municipal hazardous waste program after September 1, 1985. The statute is quite clear that, after September 1, 1985, authority for the regulation of municipal hazardous waste lies with the TWC and all TDH municipal hazardous waste authority ceases.

The revisions of the industrial waste management program made as a result of the reorganization and remaining of the TDWR do not fall within the ambit of 40 CFR 271.21(c). This section states that whenever there is a transfer of all or part of a program from an approved State agency to another State agency, the new agency is not authorized to administer the program until approved by EPA under 40 CFR 271.21(b). EPA does not view the reorganization of the TDWR into the TWC with the attendant savings clause of Section 10.004(f) of Senate Bill 249 as a transfer within the purview of 40 CFR 271.21(c). Thus, the authorized industrial hazardous waste program will continue in the State of Texas without interruption.

EPA does consider the transfer of the municipal hazardous waste program from the TDH to the TWC to fall within

the meaning of 40 CFR 271.21(c). Since the TDH authority ceased and the TWC authority for municipal hazardous waste is not authorized until approved by EPA, there has been a lapse in authority to operate a RCRA program for municipal hazardous waste in Texas until the TWC is authorized by EPA for this program. The TWC did not issued RCRA permits to municipal hazardous waste management facilities during this period. In order to minimize any significant impact this lapse of authority had on the program, EPA and the State committed to an aggressive plan of action to keep the lapse time as short as possible. This plan included submitted a draft of the program revision to EPA in mid-August, a final program revision in mid-September, and a decision as noticed in the September 4, 1985, **Federal Register** to publish an immediately effective Interim Final Determination by EPA as close to the end of September as possible if the revisions were approvable.

Comments

On October 4, 1985, EPA published a notice in the **Federal Register** (50 FR 40526) of an Interim Final Decision approving the revisions made necessary by the transfer of authority for the municipal hazardous waste program from the TDH to the TWC and of the opportunity to comment on the Interim Final Decision. The comment period ended November 18, 1985. EPA received no comments or requests for a public hearing.

Decision

The Interim Final Decision, published on October 4, 1985, is made final with the effective date remaining October 4, 1985.

List of Subjects in 40 CFR Part 271

Administrative practice and procedures, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 2912(a), 6926, 6974(b) and EPA delegations 8-7.

Dated: January 21, 1986.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 86-2162 Filed 1-30-86; 8:45 am]

BILLING CODE 6960-50-M

40 CFR Part 271

[SW-5-FRL-2964-5]

Indiana: Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Indiana's Application for Final Authorization.

SUMMARY: Indiana has applied for final authorization under the Resource Conservation and Recovery Act, as amended (RCRA). The United States Environmental Protection Agency (U.S. EPA) has reviewed Indiana's application and found it includes all information necessary for RCRA final authorization. U.S. EPA is granting final authorization to the State of Indiana to operate its hazardous waste management program, in lieu of the Federal program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA).

EFFECTIVE DATE: The final authorization for Indiana takes effect 1:00 p.m., Eastern Standard Time on January 31, 1986.

FOR FURTHER INFORMATION CONTACT: Mike Ohm, Indiana Regulatory Specialist, Solid Waste Branch, U.S. EPA, Region V, 230 South Dearborn, Chicago, Illinois, 60604 (312) 886-1657 (FTS: 8-886-1657).

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act as amended, (RCRA) allows U.S. EPA to authorize a State hazardous waste management program to operate in a State in lieu of the Federal hazardous waste management program. To qualify for final authorization, a State's program must: (1) Be equivalent to the Federal program; (2) be no less "stringent" than the Federal program; (3) be consistent with the Federal program and other authorized State programs; (4) provide for adequate enforcement authority; and (5) provide for public participation in the permit process. [Section 3006(b) of the RCRA, 42 U.S.C. 6926(b).]

On August 5, 1985, the State of Indiana submitted a complete application to obtain final authorization to administer the RCRA program. After completion of a comprehensive review of the State's official application, U.S. EPA forwarded comments to the State on September 17, 1985. These comments reflected the remaining areas which the State needed to further address. Indiana responded satisfactorily to U.S. EPA's comments in a letter dated November 4,

1985. Region V conducted a comprehensive Capability Assessment evaluating past State program performance and present resource capacity for future program implementation. The Capability Assessment, together with the Letter of Intent, highlighted the areas in which Indiana needed improvement and the measures U.S. EPA and Indiana will take to ensure that these improvements are implemented. These areas were completing and documenting the reviews of permit applications, and hiring and training staff. Since the publication of the tentative determination, Region V has continued to monitor the progress of the Indiana program in the above-noted areas of concern. Region V has found that Indiana continues to make progress in these areas, therefore, following the detailed review of the complete application and the development of a Capability Assessment evaluating past State program performance and present resource capacity for future program implementation, U.S. EPA published a notice in the **Federal Register** on November 19, 1985, announcing its tentative determination to grant final authorization to the State of Indiana. Further background on the tentative determination to grant or deny final authorization appears in the November 19, 1985, **Federal Register** (50 FR 47567). That **Federal Register** notice summarized all issues raised in U.S. EPA's review of the complete application.

Along with the notice of tentative determination, U.S. EPA announced the availability of Indiana's application for public inspection and copying, the date of the public comment period, the date of the public hearing on Indiana's application, and U.S. EPA's tentative determination to grant Indiana final authorization. The public notice ran in eleven newspapers in Indiana and was mailed to all individuals and organizations on the Region V Indiana mailing list. The public hearing was held on December 20, 1985, in Indianapolis, Indiana. Twenty-two people attended the public hearing. Twenty-two oral or written comments were presented at the public hearing or during the public comment period.

U.S. EPA's response to comments it has received is contained in the Responsiveness Summary. A copy of the Responsiveness Summary is available from Michael Ohm, Indiana Regulatory Specialist, at the United States Environmental Protection Agency, 230 South Dearborn Street, 5HS-JCK-13, Chicago, Illinois, (312) 886-1657.

Decision

After reviewing the public comments and the changes the State has made to its application since the tentative decision, I conclude that Indiana's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Indiana is granted final authorization to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984, (Pub. L. 98-616, November 8, 1984) (HSWA). Indiana now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program subject to the HSWA. Indiana also has primary enforcement responsibility, although U.S. EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA. Indiana is not authorized to operate the RCRA program on Indian lands, and this authority will remain with the U.S. EPA.

As stated above, Indiana's authority to operate a hazardous waste program under Subtitle C of RCRA is limited by the November 8, 1984, HSWA amendments to RCRA. Prior to that date a State with Final Authorization administered its hazardous waste program entirely in lieu of the U.S. EPA. The Federal requirements no longer applied in the authorized State, and U.S. EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized State until the State adopted those requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. U.S. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial Federal permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA provisions apply in authorized States in the interim.

As a result of HSWA, there will be a dual State/Federal regulatory program in Indiana. To the extent the authorized

State program is unaffected by HSWA, the State program is authorized to operate in lieu of the Federal program. Where HSWA-related requirements apply, however, U.S. EPA will administer and enforce them in Indiana until the State receives authorization to do so. Any State requirement that is more stringent than an HSWA provision also remains in effect; thus, the universe of the more stringent provisions in HSWA and the approved State program defines the applicable Subtitle C requirements in Indiana.

Indiana is not being authorized now for any requirement implementing HSWA. Once the State is authorized to implement an HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time the State will assist U.S. EPA's implementation of the HSWA under a Cooperative Agreement.

U.S. EPA has published a Federal Register notice that explains in detail HSWA and its effect on authorized States. That notice was published in the July 15, 1985 Federal Register (50 FR 28702), and should be referred to for further information.

Effective Date

40 CFR 23.4 provides that the grant of final authorization under Section 3006 takes effect 2 weeks after the date of Federal Register publication unless the Federal Register notice specifically provides otherwise. I have determined that a different effective date January 31, 1986, is necessary in this instance. Indiana currently has interim authorization for Phase I of the RCRA program. Since interim authorization expires by statute on January 31, 1986, Indiana must have authority to administer the final authorization program, on that date, or the RCRA program will revert to EPA. To avoid the problem of a short-term reversion, I have decided to shorten the period during which my decision will take effect.

Compliance with Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Indiana's

program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative Practice and Procedure, Confidential Business Information, Hazardous Materials Transportation, Hazardous Waste, Indian Lands, Intergovernmental Relations, Penalties, Reporting and Recordkeeping Requirements, Water Pollution Control, Water Supply.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, amended, by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6926, and 6974(b), EPA Delegation 8-7.

Dated: January 24, 1986.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 86-2255 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 272

[SW FRL-2961-6]

Hazardous Waste Management Program; Approved State Hazardous Waste Programs for Montana and Delaware

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. This action establishes Part 272 for codification of the decision to authorize a State program and for incorporation by reference of those provisions of State statutes and regulations that EPA will enforce under Sections 3008, 3013, and 7003 of RCRA. As part of this initial action Part 272 codifies EPA's prior final authorization of the Montana and Delaware State programs and incorporates by reference appropriate provisions of State statutes and regulations.

DATES: This regulation is effective as of January 31, 1986. The incorporation by reference of certain publications listed in the regulations is approved by the

Director of the Federal Register as of January 31, 1986.

FOR FURTHER INFORMATION CONTACT:

RCRA Hotline, toll free at (800) 424-9346 or in Washington, DC at (202) 382-3000, or Mr. Chaz Miller, USEPA, Office of Solid Waste, (202) 382-2220.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6926 et seq., allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. On June 8, 1984, and July 11, 1984, EPA published Federal Register notices announcing its decision to grant final authorization to Delaware and Montana, respectively (see 49 FR 23837 and 49 FR 28245).

Since that time EPA has decided to codify its approval of State programs in a new Part 272 of Title 40, Code of Federal Regulations and to incorporate by reference the State statutes and regulations that EPA will enforce under Section 3006 of RCRA. Today's initial codification reflects the State programs in Delaware and Montana that were in effect when EPA granted the State final authorization under Section 3006(b). As appropriate, the Code of Federal Regulations will subsequently be amended to reflect revisions to the authorized State program. Until a Delaware or Montana State provision is approved and codified by EPA, it is not part of the authorized program and will not be enforced by EPA. Codification will thus provide clearer notice to the public of the content of the authorized program.

The public needs to be aware, however, that some State provisions incorporated by reference may in fact be enforced solely by the State, and not by EPA. Although "more stringent" State requirements are part of the authorized program, State provisions which are "broader in scope" than the Federal program are not part of the authorized program. (See 40 CFR § 271.1(i).) Therefore, if a State provision is determined to be broader in scope, it will not be enforced by EPA. The State, however, will continue to enforce such provisions.

A further point concerns the effect of the 1984 RCRA amendments (the Hazardous and Solid Waste Amendments of 1984 (HSWA) Pub. L. 98-616, Nov. 8, 1984) on authorized State programs, Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including

implementing regulations) takes effect in authorized States at the same time it takes effect in non-authorized States. Thus, the HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision, even if previously authorized. See 50 FR 28702, July 15, 1985. Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and codified State provisions will be affected. Instead of amending Part 272 every time a new HSWA provision takes effect, EPA will wait until the State receives authorization for its analogue to the new HSWA provision to amend Part 272. In the interim, persons wanting to know whether a HSWA requirement is in effect will need to read 40 CFR § 271.1(j), as amended, which lists each such provision.

Some State requirements may be similar to HSWA requirements that are in effect. However, no State is authorized to implement its analogue to a HSWA provision until the Regional Administrator has published his final decision to authorize the State for specific HSWA requirements. Neither Delaware nor Montana has sought or received authority to implement any HSWA provision.

The codification of State programs should substantially enhance the public's ability to discern the current status of the authorized State program. This will be particularly true as more and more State program revisions are submitted to adopt HSWA provisions.

In order to codify Delaware and Montana, EPA is adding Part 272 to Subchapter I, listing Delaware and Montana as Subparts I and BB respectively and reserving the other Subparts for the remaining States and territories. EPA is not proposing today's action since codification is an Agency procedure exempted from notice and comment requirements by 5 U.S.C. 553. Notice and opportunity for comment were provided earlier on the Agency's decisions to approve the Delaware and Montana programs.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It codifies the decisions already made to authorize the Delaware and Montana State programs and has no effect on handlers of hazardous waste in either State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 6, 1986.

Lee M. Thomas,
Administrator.

A new Part 272 is added to 40 CFR Subchapter I to read as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

Subpart A—General Provisions

Sec.
272.1 Purpose and Scope
272.2–272.49 [Reserved]

Subpart B—Alabama
272.50–272.99 [Reserved]

Subpart C—Alaska
272.100–272.149 [Reserved]

Subpart D—Arizona
272.150–272.199 [Reserved]

Subpart E—Arkansas
272.200–272.249 [Reserved]

Subpart F—California
272.250–272.299 [Reserved]

Subpart G—Colorado
272.300–272.349 [Reserved]

Subpart H—Connecticut
272.350–272.399 [Reserved]

Subpart I—Delaware
272.400 State Authorization
272.401 State-Administered Program: Final Authorization
272.402–272.499 [Reserved]

Subpart J—District of Columbia
272.450–272.499 [Reserved]

Subpart K—Florida

272.500-272.549 [Reserved]

Subpart L—Georgia

272.550-272.599 [Reserved]

Subpart M—Hawaii

272.600-272.649 [Reserved]

Subpart N—Idaho

272.650-272.699 [Reserved]

Subpart O—Illinois

272.700-272.749 [Reserved]

Subpart P—Indiana

272.750-272.799 [Reserved]

Subpart Q—Iowa

272.800-272.849 [Reserved]

Subpart R—Kansas

272.850-272.899 [Reserved]

Subpart S—Kentucky

272.900-272.949 [Reserved]

Subpart T—Louisiana

272.950-272.999 [Reserved]

Subpart U—Maine

272.1000-272.1049 [Reserved]

Subpart V—Maryland

272.1050-272.1099 [Reserved]

Subpart W—Massachusetts

272.1100-272.1149 [Reserved]

Subpart X—Michigan

272.1150-272.1199 [Reserved]

Subpart Y—Minnesota

272.1200-272.1249 [Reserved]

Subpart Z—Mississippi

272.1250-272.1299 [Reserved]

Subpart AA—Missouri

272.1300-272.1349 [Reserved]

Subpart BB—Montana

272.1350 State Authorization

272.1351 State-Administered Program: Final Authorization

272.1352 272.1399 [Reserved]

Subpart CC—Nebraska

272.1400-272.1449 [Reserved]

Subpart DD—Nevada

272.1450-272.1499 [Reserved]

Subpart EE—New Hampshire

272.1500-272.1549 [Reserved]

Subpart FF—New Jersey

272.1550-272.1599 [Reserved]

Subpart GG—New Mexico

272.1600-272.1649 [Reserved]

Subpart HH—New York

272.1650-272.1699 [Reserved]

Subpart II—North Carolina

272.1700-272.1749 [Reserved]

Subpart JJ—North Dakota

272.1750-272.1799 [Reserved]

Subpart KK—Ohio

272.1800-272.1849 [Reserved]

Subpart LL—Oklahoma

272.1850-272.1899 [Reserved]

Subpart MM—Oregon

272.1900-272.1949 [Reserved]

Subpart NN—Pennsylvania

272.1950-272.1999 [Reserved]

Subpart OO—Rhode Island

272.2000-272.2049 [Reserved]

Subpart PP—South Carolina

272.2050-272.2099 [Reserved]

Subpart QQ—South Dakota

272.2100-272.2149 [Reserved]

Subpart RR—Tennessee

272.2150-272.2199 [Reserved]

Subpart SS—Texas

272.2200-272.2249 [Reserved]

Subpart TT—Utah

272.2250-272.2299 [Reserved]

Subpart UU—Vermont

272.2300-272.2349 [Reserved]

Subpart VV—Virginia

272.2350-272.2399 [Reserved]

Subpart WW—Washington

272.2400-272.2449 [Reserved]

Subpart XX—West Virginia

272.2450-272.2499 [Reserved]

Subpart YY—Wisconsin

272.2500-272.2549 [Reserved]

Subpart ZZ—Wyoming

272.2550-272.2599 [Reserved]

Subpart AAA—Guam

272.260-272.2649 [Reserved]

Subpart BBB—Puerto Rico

272.2650-272.2699 [Reserved]

Subpart CCC—Virgin Islands

272.2700-272.2749 [Reserved]

Subpart DDD—American Samoa

272.2750-272.2799 [Reserved]

Subpart EEE—Commonwealth of the Northern Mariana Islands

272.2800-272.2849 [Reserved]

Authority: Sec. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart A—General Provisions**§ 272.1 Purpose and scope.**

(a) This part sets forth the applicable State hazardous waste management programs under Section 3006(b) of the

Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6926, and 40 CFR 260.10. "State" is defined in 42 U.S.C. § 1004(31) as "any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

(b) Material incorporated by reference is available for inspection in the Library of the appropriate EPA Regional Office, in the Library of EPA Headquarters, 401 M St. SW, Washington, D.C. and at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW, Washington, D.C.

Subpart B—Alabama

§§ 272.50-272.99 [Reserved]

Subpart C—Alaska

§§ 272.100-272.149 [Reserved]

Subpart D—Arizona

§§ 272.150-272.199 [Reserved]

Subpart E—Arkansas

§§ 272.200-272.249 [Reserved]

Subpart F—California

§§ 272.250-272.299 [Reserved]

Subpart G—Colorado

§§ 272.300-272.349 [Reserved]

Subpart H—Connecticut

§§ 272.350-272.399 [Reserved]

Subpart I—Delaware

§§ 272.400 State Authorization.

(a) The State of Delaware is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Act Amendments of 1984 (HSWA) (Pub. L. 98-616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR 271.9-271.17 and 271.21. The State's program, as administered by the Delaware Department of Natural Resources and Environmental Control, was approved by EPA pursuant to 42 U.S.C. 6926(b) and Part 271 of this Chapter. EPA's approval was effective on June 22, 1984, 48 FR 23837.

(b) Delaware is not authorized to implement any HSWA requirement in lieu of EPA unless EPA has explicitly

indicated its intent to do so in a Federal Register notice granting Delaware authorization.

(c) Delaware has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities, including conducting inspections under Section 3007, 42 U.S.C. 6927, and taking enforcement actions under Sections 3008, 3013, and 7003, 42 U.S.C. 6928, 6934 and 6973, as well as under other Federal laws and regulations.

(d) Delaware must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Delaware must seek final authorization for all program revisions pursuant to Section 3006(b) of RCRA, but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(g) of RCRA, 42 U.S.C. § 6926(g). If Delaware obtains final authorization for the revised requirements pursuant to section 3006(b) of RCRA, the newly authorized provisions will be listed in § 272.401. If Delaware obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.402.

§ 272.401 State-Administered Program: Final Authorization

Pursuant to Section 3006(b) of RCRA, 42 U.S.C. 6926(b), Delaware has final authorization for the following elements as submitted to EPA in Delaware's program application and approved by EPA.

(a) *State Statutes and Regulations.* (1) The requirements in the Delaware statutes and regulations cited in this paragraph are incorporated by reference and made a part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register January 31, 1986.

(i) 7 Delaware Code Annotated §§ 6301 through 6307 and 6310 through 6317 (1983 Replacement Volume).

(ii) Delaware Department of Natural Resources and Environmental Control Regulations Governing Hazardous Waste, Parts 260-265, 122 and 124, Order Number 83-SW-1, July 28, 1983. (Copies are available from the Delaware Department of Natural Resources and Environmental Control, PO Box 1401, Dover, Delaware 19901.)

(2) The following statutes and regulations, although not incorporated

by reference, are part of the authorized State program.

(i) 7 Delaware Code Annotated sections 6308 and 6309 (1974 and Supp. 1983).

(ii) Delaware Administrative Procedures Act, 7 Delaware Code Annotated sections 10101 through 10161 (1974 and Supp. 1983).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region III and the Delaware Department of Natural Resources and Environmental Control, signed by the EPA Regional Administrator on December 14, 1983.

(c) *Statement of Legal Authority.* (1) "Attorney General's Statement for Final Authorization", signed by the Attorney General of Delaware of July 26, 1983.

(2) Letter from the Attorney General of Delaware to EPA, April 2, 1984.

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto.

§§ 272.402-272.449 [Reserved]

Subpart J—District of Columbia

§§ 272.450-272.499 [Reserved]

Subpart K—Florida

§§ 272.500-272.549 [Reserved]

Subpart L—Georgia

§§ 272.550-272.599 [Reserved]

Subpart M—Hawaii

§§ 272.600-272.649 [Reserved]

Subpart N—Idaho

§§ 272.650-272.699 [Reserved]

Subpart O—Illinois

§§ 272.700-272.749 [Reserved]

Subpart P—Indiana

§§ 272.750-272.799 [Reserved]

Subpart Q—Iowa

§§ 272.800-272.849 [Reserved]

Subpart R—Kansas

§§ 272.850-272.899 [Reserved]

Subpart S—Kentucky

§§ 272.900-272.949 [Reserved]

Subpart T—Louisiana

§§ 272.950-272.999 [Reserved]

Subpart U—Maine

§§ 272.1000-272.1049 [Reserved]

Subpart V—Maryland

§§ 272.1050-272.1099 [Reserved]

Subpart W—Massachusetts

§§ 272.1100-272.1149 [Reserved]

Subpart X—Michigan

§§ 272.1150-272.1199 [Reserved]

Subpart Y—Minnesota

§§ 272.1200-272.1249 [Reserved]

Subpart Z—Mississippi

§§ 272.1250-272.1299 [Reserved]

Subpart AA—Missouri

§§ 272.1300-272.1349 [Reserved]

Subpart BB—Montana

§ 272.1350 State Authorization

(a) The State of Montana is authorized to administer and enforce its hazardous waste management program in lieu of the program under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Act Amendments of 1984 (HSWA) (Pub. L. 98-616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR 271.9-271.17 and 271.21. The State's program, as administered by the Montana Department of Health and Environmental Services, was approved by EPA pursuant to 42 U.S.C. 6926(b) and Part 271 of this Chapter. EPA's approval was effective on July 11, 1984, 48 FR 28245.

(b) Montana is not authorized to implement any HSWA requirement in lieu of EPA unless EPA has explicitly indicated its intent to do so in a Federal Register notice granting Montana authorization.

(c) Montana has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities, including conducting inspections under Section 3007, 42 U.S.C. 6927 and to take enforcement actions under sections 3008, 3013 and 7003, 42 U.S.C. 6928, 6934

and 6973, as well as under other Federal laws and regulations.

(d) Montana must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Montana must seek final authorization for all program revisions pursuant to section 3006(b) of RCRA, but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(g) of RCRA, 42 U.S.C. 6926(g). If Montana obtains final authorization for the revised requirements pursuant to section 3006(b) of RCRA, the newly authorized provisions will be listed in § 272.1351. If Montana obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.1352.

§ 272.1351 State-Administered Program: Final Authorization

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Montana has final authorization for the following elements, as submitted to EPA in Montana's program application and any subsequently approved revisions thereto.

(a) *State Statutes and Regulations.* (1) The requirements in the Montana statutes and regulations cited in this paragraph are incorporated by reference and made a part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Office of the Federal Register effective January 31, 1986.

(i) Montana Hazardous Waste Act, Montana Code Annotated, §§ 75-10-401 through 75-10-413 and 75-10-419 through 75-10-421 (1983).

(ii) Administrative Rules of Montana, Health and Environmental Sciences, §§ 16.44.101 through 16.44.911 (1983) and amendments to §§ 16.44.104, 106., 108., 109., 202., 811., 817., and 819 adopted on January 16, 1984.

(2) The following statutes and regulations, although not incorporated by reference, are part of the authorized State program.

(i) Montana Hazardous Waste Act, Montana Code Annotated, §§ 75-10-414 through 418 (1983).

(ii) Montana Public Records Act, Montana Code Annotated, §§ 2-6-101 through 307 (1983).

(iii) Montana Administrative

Procedures Act, Montana Code Annotated, sections 2-4-101 through 705 (1983).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VIII and the Montana Department of Health and Environmental Services, signed by the EPA Regional Administrator on June 16, 1984.

(c) *Statement of Legal Authority.* Letter from the Attorney General of Montana to EPA, June 7, 1984, with attached Statement of Independent Legal Counsel, dated June 1, 1984.

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto.

§§ 272.1352-272.1399 [Reserved]

Subpart CC—Nebraska

§§ 272.1400-272.1449 [Reserved]

Subpart DD—Nevada

§§ 272.1450-272.1499 [Reserved]

Subpart EE—New Hampshire

§§ 272.1500-272.1549 [Reserved]

Subpart FF—New Jersey

§§ 272.1550-272.1599 [Reserved]

Subpart GG—New Mexico

§§ 272.1600-272.1649 [Reserved]

Subpart HH—New York

§§ 272.1650-272.1699 [Reserved]

Subpart II—North Carolina

§§ 272.1700-272.1749 [Reserved]

Subpart JJ—North Dakota

§§ 272.1750-272.1799 [Reserved]

Subpart KK—Ohio

§§ 272.1800-272.1849 [Reserved]

Subpart LL—Oklahoma

§§ 272.1850-272.1899 [Reserved]

Subpart MM—Oregon

§§ 272.1900-272.1949 [Reserved]

Subpart NN—Pennsylvania

§§ 272.1950-272.1999 [Reserved]

Subpart OO—Rhode Island

§§ 272.2000-272.2049 [Reserved]

Subpart PP—South Carolina

§§ 272.2050-272.2099 [Reserved]

Subpart QQ—South Dakota

§§ 272.2100-272.2149 [Reserved]

Subpart RR—Tennessee

§§ 272.2150-272.2199 [Reserved]

Subpart SS—Texas

§§ 272.2200-272.2249 [Reserved]

Subpart TT—Utah

§§ 272.2250-272.2299 [Reserved]

Subpart UU—Vermont

§§ 272.2300-272.2349 [Reserved]

Subpart VV—Virginia

§§ 272.2350-272.2399 [Reserved]

Subpart WW—Washington

§§ 272.2400-272.2449 [Reserved]

Subpart XX—West Virginia

§§ 272.2450-272.2499 [Reserved]

Subpart YY—Wisconsin

§§ 272.2500-272.2549 [Reserved]

Subpart ZZ—Wyoming

§§ 272.2550-272.2599 [Reserved]

Subpart AAA—Guam

§§ 272.2600-272.2649 [Reserved]

Subpart BBB—Puerto Rico

§§ 272.2650-272.2699 [Reserved]

Subpart CCC—Virgin Islands

§§ 272.2700-272.2749 [Reserved]

Subpart DDD—American Samoa

§§ 272.2750-272.2799 [Reserved]

Subpart EEE—Commonwealth of the Northern Mariana Islands

§§ 272.2800-272.2849 [Reserved]

[FR Doc. 86-1879 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

Eligibility in the States, District of Columbia and the Northern Mariana Islands

CFR Correction

In the October 1, 1985 revision of Title 42 (Part 430 to End) of the Code of Federal Regulations, on page 98, § 435.732 was inadvertently omitted. For the convenience of the user, the section is republished in its entirety.

§ 435.732 Procedures for determining income eligibility.

The agency must determine income eligibility of individuals in the categories specified in § 435.731 in the following manner:

(a) *Determining countable income.*

The agency must deduct the following amounts from income to determine the individual's countable income:

- (1) Any SSI benefit the individual receives.
- (2) Any optional State supplement the individual receives.
- (3) Increases in OASDI that are deducted under §§ 435.134 and 435.135(c) for individuals specified in those sections.
- (4) Other deductions from income applied under the Medicaid plan.

(b) *Eligibility based on countable income.* If countable income determined under paragraph (a) of this section is equal to or less than the applicable income standard established under § 435.121 the individual is eligible for Medicaid.

(c) *Deduction of incurred medical expenses.* (1) If countable income exceeds the income standard, the agency must deduct from income expenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under State law and are not subject to payment by a third party, including Medicare and other health insurance premiums, deductibles or coinsurance charges, and copayments or deductibles imposed under § 447.51 or § 447.53 of this subchapter.

(2) The agency may set reasonable limits on the amounts of incurred medical expenses to be deducted from income.

(d) *Eligibility based on incurred medical expenses.* If, after incurred medical expenses are deducted, remaining income is equal to or less

than the income standard, the individual is eligible for Medicaid.

[45 FR 24884, Apr. 11, 1980]

BILLING CODE 1505-02-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Colorado et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
COLORADO	
Denver (City), Denver County	
Clear Creek: Intersection of the stream and the center of West 52nd Avenue	*5,267
Bear Creek: 50 feet upstream from the center of South Sheridan Boulevard (State Highway 95)	*5,340
Cherry Creek: 30 feet upstream from the center of Larimer Street	*5,196
50 feet upstream from the center of South Holly Street	*5,373
Lakewood Gulch: Intersection of the stream and the center of Perry Street	*5,267
Lakewood Gulch Overflow: 60 feet east along West 13th Avenue from the intersection of West 13th Avenue and West Myrtle Place	*5,195
Dry Gulch (Lakewood Gulch Tributary): Intersection of the stream and the center of Perry Street	*5,269
Harvard Gulch: Intersection of South Marion Street and Wesley Avenue	*5,328
Intersection of South Broadway Street and Cliff Avenue	#1
Harvard Gulch Overflow: Intersection of South Corona Street and Wesley Avenue	*5,325
Intersection of Wesley Avenue and South Ogden Street	#1
Dry Gulch (Harvard Gulch Tributary): Intersection of Harvard Avenue and South Pearl Street	*5,305
Intersection of Harvard Avenue and South Washington Court	#2

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
West Harvard Gulch: Intersection of West Water Avenue and South Zuni Street.....	*5,346	Just downstream of Kansas Turnpike.....	*1,273	About 1,350 feet upstream of Woodlawn Avenue.....	*1,361
100 feet northeast along West South Platte River Drive from the Culvert at West Harvard Gulch.....	#1	About 2.15 miles downstream of State Highway 96.....	*1,322	Just upstream of 45th Street North.....	*1,377
Goldsmith Gulch: Intersection of Mexico Avenue and Colorado Drive.....	*5,410	About 0.3 mile upstream of State Highway 96.....	*1,329	About 1,300 feet upstream of 53rd Street North..	*1,403
Intersection of South Tamarac Drive and Princeton Avenue.....	*5,526	Spring Creek: At mouth.....	*1,235	Gypsum Creek: About 1,100 feet downstream of Harry Street.....	*1,319
Intersection of South Monaco Street Parkway and Iowa Avenue.....	#2	About 0.6 mile upstream of Woodlawn Avenue....	*1,261	Just downstream of Harry Street.....	*1,320
Southmoor Park Tributary: Intersection of the stream and the center of Eastman Avenue.....	*5,486	Dry Creek: Just downstream of Madison Road.....	*1,266	Center Drain East Tributary: About 3,700 feet downstream of 37th Street North.....	*1,332
Sanderson Gulch: Intersection of the stream and the center of West Arkansas Avenue.....	*5,280	About 840 feet downstream of Farm Road.....	*1,287	About 8,300 feet upstream of Hillside Avenue.....	*1,373
Intersection of West Florida Avenue and South Ranitan Street.....	#1	About 1,250 feet upstream of Farm Road.....	*1,293	Spring Branch: Just upstream of 159th Street East.....	*1,290
Weir Gulch: Intersection of South Weir Drive and South Vrain Street.....	*5,316	Dry Creek Tributary: About 1,600 feet downstream of Windmill Road....	*1,282	About 3,000 feet upstream of Greenwich Road....	*1,340
Dakota Avenue Tributary: Intersection of West Alaska Place and South Yates Street.....	#1	Just downstream of Windmill Road.....	*1,293	Spring Branch Tributary No. 1: At mouth.....	*1,291
First Avenue Tributary: Intersection of West 1st Avenue and Stuart Street.....	*5,302	Cowskin Creek: About 2,000 feet upstream of Pawnee Avenue....	*1,308	Just downstream of Pawnee Avenue.....	*1,309
Sand Creek: 50 feet upstream from the center of Quebec Street.....	*5,230	About 0.53 mile downstream of Maple Street.....	*1,314	Spring Branch Tributary No. 4: At mouth.....	*1,294
100 feet west along Smith Road from its inter- section with Havana Street.....	#3	Just downstream of Maple Street.....	*1,319	About 200 feet downstream of Interstate 35.....	*1,324
Maps available for inspection at Wastewater Management Division, 3840G York Street, Denver, Colorado and Planning Department, 1445 Cleveland Place, Denver, Colorado.		Just upstream of Central Avenue.....	*1,328	Just upstream of Interstate 35.....	*1,332
FLORIDA		Just downstream of 21st Street North.....	*1,345	Just downstream of Earth Dam.....	*1,335
Collier County (Unincorporated Areas) (FEMA Docket No. 6560)		About 6,850 feet downstream of State Highway 296.....	*1,366	Just upstream of Earth Dam.....	*1,342
Gulf of Mexico: At Intersection of Tamiami Trail and State Road 29.....	*7	About 6,400 feet upstream of State Highway 296.....	*1,376	About 1,750 feet upstream of Earth Dam.....	*1,343
At the Intersection of U.S. Route 41 and Pelton Street.....	*8	Cowskin Creek South: About 2,700 feet downstream of 95th Street South.....	*1,243	Wichita Branch Center Floodway: Just downstream of Seneca Street.....	*1,270
At the Intersection of County Highway 901 and 100th Avenue.....	*11	Just upstream of Seneca Street.....	*1,259	About 0.6 mile downstream of Zoo Boulevard.....	*1,317
Along the shoreline from the intersection of Park Shore Drive and Gulf Shore Boulevard to Blind Pass.....	*15	Caltskin Creek: About 3,400 feet upstream of mouth.....	*1,318	About 2.3 miles upstream of Missouri Pacific Railroad.....	*1,324
Along shoreline from northern county boundary to the Intersection of Seagate Drive and Seashore Avenue.....	*17	Just downstream of US Highway 54.....	*1,322	Cleanwater Tributary 1: About 1,300 feet downstream of Tracy Avenue South.....	*1,262
Maps available for inspection at the Planning, Building and Zoning Department, Government Complex, 3301 East Tamiami Trail, Naples, Florida.		North Fork Caltskin Creek: At mouth.....	*1,320	About 650 feet upstream of Ross Avenue.....	*1,269
Everglades (City), Collier County (FEMA Docket No. 6499)		About 1.2 miles upstream of confluence of Middle Fork Caltskin Creek.....	*1,340	Pleasant Valley Tributary: Within Unincorporated Area.....	*1,325
Gulf of Mexico: About 2,000 feet north of the Intersection of Collier Avenue and Datura Street.....	*8	Middle Fork Caltskin Creek: About 370 feet upstream of mouth.....	*1,324	West Branch Gypsum Creek: Within Unincorporated Area.....	*1,357
At the mouth of Barron River.....	*13	About 4,400 feet upstream of mouth.....	*1,340	Little Arkansas River: About 1.0 mile upstream of confluence with Wichita-Valley Center Floodway.....	*1,325
Maps available for inspection at the City Hall, Everglades, Florida.		Big Slough North: At mouth.....	*1,256	About 2,700 feet upstream of Hoover Street.....	*1,364
Naples (City), Collier County (FEMA Docket No. 6485)		Just upstream of 13th Street North.....	*1,337	At upstream County Boundary.....	*1,374
Gulf of Mexico: Just east of the intersection of State Road 31 and Prospect Avenue.....	*7	Just downstream of 45th Street North.....	*1,337	Shallow Flooding (ponding from rainfall): At intersection of Seneca Street and 63rd Street South.....	*1,265
At the intersection of 12th Avenue South and 8th Street.....	*11	Just downstream of 53rd Street North.....	*1,346	About 2,600 feet west of intersection of Broad- way and 63rd Street South.....	*1,265
Along shoreline within community.....	*15	Big Slough South: At mouth.....	*1,256	About 1,200 feet south of 63rd Street South, just west of Broadway.....	*1,265
Maps available for inspection at the City Hall, 735 Eighth Street, South, Naples, Florida.		Just upstream of Hydraulic Avenue.....	*1,264	Maps available for inspection at the Sedgwick County Building, Sedgwick County Public Works Department, Wichita, Kansas.	
KANSAS		Just downstream of 55th Street South.....	*1,267	Wichita (City), Sedgwick County (FEMA Docket No. 6645)	
Sedgwick County (Unincorporated Areas) (FEMA Docket No. 6648)		Little Slough: At mouth.....	*1,332	Arkansas River: About 1.9 miles downstream of 47th Street South.....	*1,258
Arkansas River: Just upstream of State Highway 53.....	*1,223	Just downstream of 53th Street North.....	*1,342	About 0.4 mile upstream of State Highway 16.....	*1,330
About 0.7 mile upstream of Washington Street.....	*1,252	Chisholm Creek: Just upstream of Interstate 35.....	*1,349	Little Arkansas River: Mouth at Arkansas River.....	*1,294
About 1.85 miles downstream of 47th Street South.....	*1,258	Just upstream of 77th Street North.....	*1,370	Just downstream of Control Structure No. 1.....	*1,310
		West Branch Chisholm Creek: At mouth.....	*1,332	Just upstream of Control Structure No. 1.....	*1,325
		About 0.45 mile upstream of 77th Street North....	*1,343	Dry Creek: Mouth at Gypsum Creek.....	*1,290
		West Fork Chisholm Creek: At mouth.....	*1,357	At confluence of East Branch Dry Creek.....	*1,339
		Just downstream of 77th Street North.....	*1,363	East Branch Dry Creek: At confluence with Dry Creek.....	*1,339
		Middle Branch Gypsum Creek: About 3,150 feet downstream of 13th Street North.....	*1,350	Just downstream of Central Avenue.....	*1,365
		About 4,050 feet upstream of 13th Street North....	*1,364	West Branch Dry Creek: At confluence with Dry Creek.....	*1,339
		Fourmile Creek: Just downstream of Harry Street.....	*1,288	Just downstream of 13th Street.....	*1,386
		Just upstream of Central Avenue.....	*1,317	Wichita Drainage Canal: Mouth at Arkansas River.....	*1,274
		About 400 feet upstream of Burlington Northern Railroad.....	*1,345	At confluence of Center Drain Tributary.....	*1,305
		West Fork Fourmile Creek: At mouth.....	*1,321	Center Drain Tributary: At confluence with Wichita Drainage Canal.....	*1,305
		Just downstream of Burlington Northern Rail- road.....	*1,348	Just downstream of Missouri Pacific Railroad.....	*1,308
		Just upstream of Burlington Northern Railroad....	*1,354	Center Drain East Tributary: Mouth at Storm Water Management Basin.....	*1,317
		About 2,650 feet upstream of Burlington North- ern Railroad.....	*1,355	About 6,100 feet upstream of mouth.....	*1,336
		Brookhaven Creek: At mouth.....	*1,290	East Fork Chisholm Creek: At confluence with Wichita Drainage Canal.....	*1,304
		Just downstream of Interstate 35.....	*1,321	Just upstream of Hillside Avenue.....	*1,339
		Just upstream of Interstate 35.....	*1,329	Just downstream of Missouri Pacific Railroad....	*1,368
		Just downstream of 13th Street North.....	*1,332	Just upstream of Missouri Pacific Railroad.....	*1,376
		Middle Fork Chisholm Creek: About 1.0 mile about mouth.....	*1,332		
		Just downstream of State Highway 254.....	*1,339		
		Just downstream of State Highway 254 (up- stream crossing).....	*1,361		
		East Fork Chisholm Creek: About 550 feet downstream of Woodlawn Avenue.....	*1,357		

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Del Mar (City), San Diego County (FEMA Docket No. 6676)		Monterey (City), Monterey County (FEMA Docket No. 6676)		Pacific Ocean: Intersection of Beach Drive and Rio Del Mar Boulevard.....	*17
<i>Pacific Ocean:</i>		<i>Pacific Ocean:</i> 400 Feet north of the intersection of Cortes Street and Del Monte Avenue.....	*19	Maps available for inspection at County Planning Department, 701 Ocean Street, Santa Cruz, California.	
200 feet west from the center of the intersection of 27th Street and Ocean Front.....	*8	Point Arena (City), Mendocino County (FEMA Docket No. 6676)		Vista (City), San Diego County (FEMA Docket No. 6676)	
300 feet west from the center of the intersection of Ocean Avenue and Atchison, Topeka & Santa Fe Railroad.....	*9	<i>Pacific Ocean:</i> At the mouth of Point Arena Creek.....	*20	<i>Buena Vista Creek:</i> 100 feet upstream from the center of Indian Avenue crossing.....	*334
450 feet west from the center of the intersection of Ocean Avenue and 13th Street.....	*10	Maps available for inspection at the City Hall, Point Arena, California.		Shallow Flooding:	
375 feet west from the center of the intersection of Grand Avenue and Carmel Valley Road.....	*11			100 feet northeast from the center of the intersection of West Broadway and Atchison, Topeka & Santa Fe Railroad.....	*321
580 feet west from the center of the intersection of 7th Street and Stratford Court.....	*12	Sand City (City), Monterey County (FEMA Docket No. 6676)		200 feet northwest from the center of the intersection of Mesa Avenue and Vista Way.....	#1
<i>Soledad Canyon:</i> 800 feet southwest from the center of the intersection of Carmel Valley Road and Grand Avenue.....	*11	<i>Pacific Ocean:</i> Intersection of Bay Avenue and Vista Del Mar Street.....	*24	<i>Buena Vista Creek Tributary 1:</i> 50 feet upstream from the center of Chelsea Court crossing.....	*433
San Dieguito River: 50 feet upstream from the center of Jimmy Durante Boulevard.....	*18	Maps available for inspection at Planning Department, 1 Sylvan Park Street, Sand City, California.		<i>Shallow Flooding:</i> 80 feet southeast from the center of the intersection of Alta Calle and South Santa Fe Avenue.....	381
Maps available for inspection at City Hall, 1050 Camino Del Mar, Del Mar, California.				<i>Buena Vista Creek Tributary 3:</i> At the intersection of East Drive and Santa Fe Avenue.....	*345
		Santa Cruz (City), Santa Cruz County (FEMA Docket No. 6676)		Maps available for inspection at Public Works Department, 600 Eucalyptus Avenue, Vista, California.	
Del Norte County (Unincorporated Areas) (FEMA Docket No. 6676)		<i>Pacific Ocean:</i> 300 feet south of the intersection of Beach Street and Riverside Avenue.....	*15		
<i>Pacific Ocean:</i> At the shoreline east of Crescent City's eastern boundary.....	*13	Maps available for inspection at City Planning Department, 809 Center Street, Room 10, Santa Cruz, California.		COLORADO	
Maps available for inspection at Planning Department, 700 5th Street, Crescent City, California.				Federal Heights (Town), Adams County (FEMA Docket No. 6665)	
		Santa Cruz County, (Unincorporated Areas) (FEMA Docket No. 6665)		<i>Tributary M of River Creek:</i> Intersection of Holiday Loop and Holiday Parkway.....	*5,335
Escondido (City), San Diego County (FEMA Docket No. 6676)		<i>Aptos Creek:</i> 20 feet upstream from center of State Highway 1 (Cabrillo Freeway).....	*24	Maps available for inspection at City Manager's Office, 2380 West 90th Avenue, Federal Heights, Colorado.	
<i>Citrus Wash:</i>		<i>Arana Gulch:</i> Intersection of Arana Gulch and center of State Highway 1 (Cabrillo Freeway).....	*65		
At the intersection of Obisidian Glen and Diamond Glen.....	#1	<i>Carbonera Creek at Santa Cruz:</i> 450 feet east from intersection of Plymouth Street and Emeline Avenue.....	*42	CONNECTICUT	
Just downstream of the intersection of Valley Parkway and Midway Drive.....	*686	<i>Carbonera Creek at Scotts Valley:</i> 480 feet downstream from center of State Highway 17.....	*462	Avon (Town), Hartford County (FEMA Docket No. 6676)	
<i>South Midway Wash:</i> At the intersection of Kingston Drive and Midway Drive.....	#1	<i>Corralitos Creek:</i>		<i>Farmington River (Eastern Segment):</i>	
<i>Maywood Wash and Midway Wash:</i>		50 feet upstream from center of Green Valley Road.....	*108	At Avon-Simsbury corporate limits.....	*163
At the intersection of Fern Street and Lincoln Avenue.....	#1	50 feet upstream from center of Brown Valley Road.....	*240	Approximately 200 feet upstream of U.S. Route 44.....	*166
At the intersection of Tennyson Street and La Honda Drive.....	#1	<i>Coward Creek:</i> Intersection of Coward Creek and center of Riverside Road.....	*40	At Old Farms Road.....	*168
100 feet southwest from the intersection of Midway Drive and Washington Avenue.....		<i>Harkins Slough:</i> Intersection of Harkins Slough and Harkins Slough Road.....	*14	At Avon-Farmington corporate limits.....	*169
<i>Country Club Creek:</i>		<i>Pajaro River:</i> 200 feet upstream from center of State Highway 1.....	*27	<i>Farmington River (Western Segment):</i>	
200 feet southwest from the intersection of Gary Lane and Country Club Lane.....	*691	<i>Pajaro River—Without Consideration of Levee:</i> Intersection of West Beach Street and Thurwachter Road.....	*14	At Farmington-Avon corporate limits.....	*208
500 feet northwest from the intersection of Bernie Place and Cheshire Way.....	*702	<i>Rodeo Creek Gulch:</i> 190 feet upstream from center of State Highway 1.....	*78	At confluence of Hawley Brook.....	*232
<i>Unnamed Tributary:</i> At the intersection of El Norte Parkway and Country Club Lane.....	*702	<i>Salsipuedes Creek:</i> Intersection of College Road and Cutter Drive.....	*62	Approximately 2.5 miles upstream of Farmington-Avon corporate limits.....	*260
Maps available for inspection at Public Works Department, 620 North Ash Street, Escondido, California.		<i>San Lorenzo River:</i>		Upstream side of Lower Collins Dam.....	*275
		150 feet upstream from center of Ocean Street.....	*68	At most upstream corporate limits.....	*278
Eureka (City), Humboldt County (FEMA Docket No. 6676)		110 feet upstream from center of Brimblecom Road.....	*492	<i>Roaring Brook:</i>	
<i>Humboldt Bay:</i> At the western terminus of Del Norte Street.....	*6	Intersection of San Lorenzo River and center of McGaffigan Mill Road.....	*658	At downstream corporate limits.....	*240
Maps available for inspection at Department of Community Development, 531 K Street, Eureka, California.		<i>San Vicente Creek:</i> 85 feet upstream from center of State Highway 1.....	*25	At upstream side of Hollister Drive West.....	*252
		<i>Schwans Lagoon:</i> Intersection of Schwans Lagoon and center of East Cliff Drive.....	*13	Approximately 50 feet upstream of Country Club Road.....	*274
Half Moon Bay (City), San Mateo County (FEMA Docket No. 6676)		<i>Soquel Creek:</i> Intersection of Soquel Drive and Porter Street.....	*40	At upstream corporate limits.....	*285
<i>Pacific Ocean:</i> Intersection of Santa Rosa Avenue and Balboa Boulevard.....	*27	<i>Struve Slough:</i> Intersection of Struve Slough and center of State Highway 1.....	*15	<i>Nod Brook:</i>	
Maps available for inspection at City Hall, Half Moon Bay, California.		<i>Thomasello Creek:</i> Intersection of Thomasello Creek and center of Riverside Road.....	*54	At confluence with Farmington River.....	*163
		<i>Thompson Creek:</i> 10 feet upstream from center of Riverside Road.....	*51	Upstream side of State Route 10.....	*174
Mendocino County, (Unincorporated Areas) (FEMA Docket No. 6676)		<i>Watsonville Slough:</i> Intersection of Watsonville Slough and center of Ford Street.....	*23	Upstream side of Ensign Drive.....	*189
<i>Gualala River:</i> At State Route 1.....	*17	<i>Zayante Creek:</i> 50 feet upstream from center of Quail Hollow Road.....	*336	Upstream side of U.S. Route 44 (1st upstream crossing).....	*215
Maps available for inspection at Department of Planning and Building Services, Mendocino County Courthouse, Ukiah, California.		<i>College Lake:</i> Intersection of Laken Drive and Laken Court.....	*70	At Darling Drive.....	*238
		<i>Lake Tynan:</i> Along entire lake shoreline.....	*42	Downstream side of U.S. Route 44 (2nd upstream crossing).....	*254
				Upstream corporate limits.....	*255
				<i>Thompson Brook:</i>	
				At confluence with Farmington River.....	*168
				Downstream side of Old Farms Road (2nd upstream crossing).....	*202
				At confluence with Big Brook and Chidsey Brook.....	*259
				<i>Chidsey Brook:</i>	
				At confluence with Thompson Brook.....	*259
				Downstream side of State Route 167.....	*285
				Approximately 25 feet upstream of Country Club Road.....	*293
				<i>Hawley Brook:</i>	
				At confluence with Farmington River.....	*232
				At Bottomwood Hill Road.....	*300
				Approximately 650 feet upstream Edwards road.....	*378

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Big Brook:		Little Bear Creek Tributary:		Callaway (City), Bay County (FEMA Docket No. 6676)	
At confluence with Thompson Brook.....	*259	At confluence with Little Bear Creek.....	*51	East Bay:	
Approximately 30 feet upstream of West Avon Road.....	*274	About 500 feet upstream of U.S. Route 231.....	*56	Along shoreline of Callaway Bayou from about 0.5 mile south of Boat Race Road to State Road 22.....	*4
Approximately 60 feet upstream of Haynes Road (1st upstream crossing).....	*320	Deer Point Lake: Along entire shoreline.....	*8	Along shoreline from about 0.25 mile west of South Gay Avenue to mouth of Dotys Cove.....	*6
At Haynes Road (2nd upstream crossing).....	*342	Double Branch:		St. Andrew Bay: Along shoreline of Pitts Bayou within corporate limits.....	*4
Lake Erie Brook:		At confluence with Little Bear Creek.....	*56	Martin Lake: Within corporate limits.....	*10
At confluence with Farmington River.....	*163	About 2,300 feet upstream of confluence with Little Bear Creek.....	*63	Callaway Bayou Tributary:	
Approximately 0.3 mile upstream of confluence with Farmington River.....	*168	Clear Creek:		Just upstream of Berthe Avenue.....	*4
Maps available for inspection at the Town Clerk's Office, Avon, Connecticut.		At confluence with Bear Creek.....	*10	Just downstream of Old Dam at Sudduth Pond.....	*10
CONNECTICUT		About 2.3 miles upstream of Camp Flowers Road.....	*49	Just upstream of Old Dam at Sudduth Pond.....	*17
Simsbury (town), Hartford County (FEMA Docket No. 6676)		Bayou George:		Just downstream of Cherry Street.....	*17
Hop Brook:		Just upstream of U.S. Route 231.....	*8	Just upstream of Cherry Street.....	*22
At confluence with the Farmington River.....	*157	Just downstream of John Fitz Road.....	*16	About 0.5 mile upstream of Cherry Street.....	*26
At upstream side of Hopmeadow Road.....	*162	Mill Bayou:		Maps available for inspection at the City Building, Callaway, Florida.	
At upstream side of dam.....	*185	Just upstream of County Highway 390.....	*7	Freeport (City), Walton County (FEMA Docket No. 6676)	
At upstream side of West Street.....	*200	About 0.7 mile upstream of confluence of Mill Bayou Tributary.....	*38	Choctawhatchee Bay: Along Lafayette and Four-mile Creeks downstream of State Road 20.....	*8
At upstream side of Cedar Glen Road.....	*225	Mill Bayou Tributary:		Maps available for inspection at the City Building, Freeport, Florida.	
At upstream side of Hop Brook Road.....	*249	At confluence with Mill Bayou.....	*28	Lynn Haven (City), Bay County (FEMA Docket No. 6676)	
At upstream side of Old Farms Road.....	*299	About 1,060 feet upstream of Avon Road.....	*34	North Bay:	
Approximately 250 feet upstream of West Ledge Road.....	*320	Callaway Bayou Tributary:		Just south of the intersection of 5th Street and Virginia Avenue.....	*6
Stratton Brook:		About 1,390 feet downstream of County Highway 22.....	*25	Just east of Haven Point.....	*9
At confluence with Hop Brook.....	*209	Just downstream of County Highway 22.....	*28	Maps available for inspection at the City Building, 825 Ohio Avenue, Lynn Haven, Florida.	
At upstream side of Stratton Brook Road.....	*240	Callaway Creek:		Mexico Beach (Town) Bay County (FEMA Docket No. 6676)	
At upstream side of Town Forest Road.....	*256	About 0.6 mile upstream of County Highway 22.....	*4	Gulf of Mexico:	
At upstream side of dam above John Peel Road.....	*297	About 3.1 miles upstream of County Highway 22.....	*28	Along entire shoreline of inland canal system.....	*6
At upstream side of dam above West Mountain Road.....	*324	Choctawhatchee River:		Along entire shoreline within community.....	*9
At upstream side of Shingle Mill Road.....	*336	About 1.1 miles downstream of Walton County-Washington County.....	*16	Maps available for inspection at the Town Hall, Mexico Beach, Florida.	
At downstream side of Woodchuck Hill Road.....	*460	About 8 miles upstream of Washington County-Walton County boundary.....	*21	Panama City (City), Bay County (FEMA Docket No. 6678)	
Nod Brook:		Martin Lake: Entire shoreline.....	*10	St. Andrew Bay:	
At downstream corporate limits.....	*255	West Bay:		Entire shoreline of Lake Huntington.....	*4
At upstream side of Fernwood Drive (west).....	*279	Along shoreline from Hathaway Bridge to about 700 feet south of Shell Point.....	*4	Along shoreline from Hannah Avenue to one block west of Michigan Avenue.....	*6
At upstream side of Notch Road.....	*309	At the mouth of Burnt Mill Creek.....	*11	North Bay:	
Approximately 50 feet upstream of Rocklyn Drive.....	*329	Along shoreline from the mouth of Intracoastal Waterway near the Town of West Bay to the mouth of Big Crooked Creek.....	*12	Along shoreline from about 950 feet southwest of mouth of Robinson Bayou to southwestern corporate limits.....	*4
Minister Brook:		North Bay:		Along shoreline from mouth of Robinson Bayou to Goose Bayou.....	*7
At confluence with Farmington River.....	*161	Along shoreline from Pretty Bayou to Posten Bayou.....	*4	Maps available for inspection at City Hall, Panama City, Florida.	
At upstream side of CONRAIL.....	*173	At mouth of Alligator Bayou.....	*7	Panama City Beach (City), Bay County (FEMA Docket No. 6676)	
At upstream side of Red Stone Drive.....	*240	At north end of the west side of North Bay Bridge.....	*9	Gulf of Mexico:	
Approximately 1,200 feet downstream of Pine Glen Road.....	*306	Along shoreline from Gainer Bayou to Beatty Bayou.....	*11	Just west of intersection of Seventh Street and Georgia Avenue.....	*5
Approximately 60 feet downstream of Park Road.....	*337	St. Andrew Bay:		Along shoreline from De Luna Place to about 1,000 feet northwest of Gulf Resort Beach.....	*9
Munnisunk Brook:		Along shoreline from Dupont Bridge to Davis Point.....	*4	St. Andrew Bay: Just west of State Route 392 near Grand Lagoon.....	*4
At confluence with Farmington River.....	*154	Along shoreline from Beacon Beach to Davis Point.....	*6	Maps available for inspection at City Hall, 100 South Arnold Road, Panama City Beach, Florida.	
At upstream side of dam above CONRAIL.....	*169	Along shoreline just southeast of Beacon Beach.....	*7	Parker (City), Bay County (FEMA Docket No. 6676)	
At downstream side of County Road.....	*279	East Bay:		Along shoreline of Parker Bayou.....	*4
Maps available at the Town Clerk's Office, Town Hall.		Along shoreline from Dupont Bridge to Strange Bayou.....	*4	Along shoreline from Martin Lake to Parker Bayou.....	*5
FLORIDA		Along the shoreline from Murray Bayou to Al-lanton.....	*7	East Bay:	
Bay County (Unincorporated Areas) (FEMA Docket No. 6676)		Along shoreline from mouth of Horseshoe Bayou to the mouth of Wetappo Creek.....	*10	Along shoreline from Long Point to about 1.2 miles northeast of Long Point.....	*4
Econfina Creek:		Gulf of Mexico:			
At downstream county boundary.....	*81	Along shoreline beginning about 8,500 feet southeast of St. Andrew Bay inlet to a point about 9,000 feet southeast of Crooked Island Point.....	*7		
About 3.4 miles upstream of Scott Road.....	*147	Along shoreline in the vicinity of Laguna Beach.....	*9		
Sweetwater Creek:		Maps available for inspection at the Bay County Building Department, 517 East 9th Street, Panama City, Florida.			
At confluence with Econfina Creek.....	*106	Bunnell (Town), Flagler County (FEMA Docket No. 6676)			
About 3.2 miles upstream of confluence with Econfina Creek.....	*172	Black Branch:			
Juniper Creek:		About 0.8 mile downstream of Old Haw Creek Road.....	*15		
At downstream county boundary.....	*139	About 3,000 feet upstream of Old Haw Creek Road.....	*17		
About 300 feet upstream of Atlanta and St. Andrews Bay Railroad.....	*158	Maps available for inspection at the Town Hall, Bunnell, Florida.			
Bear Creek:					
Just downstream of County Highway 2301.....	*8				
Just downstream of Atlanta and St. Andrews Bay Railroad.....	*127				
Just upstream of Atlanta and St. Andrews Bay Railroad.....	*132				
About 1.1 miles upstream of Atlanta and St. Andrews Bay Railroad.....	*137				
Little Bear Creek:					
At confluence with Bear Creek.....	*26				
About 400 feet upstream of confluence of Double Branch.....	*57				

Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)
Along shoreline from about 1.2 miles northeast of Long Point to about 1.25 miles northeast of Long Point	*6	Monroe County (Unincorporated Areas), (FEMA Docket No. 6682)		Lincoln Draw Diversion:	
Martin Lake: Within Community	*10	<i>Mississippi River:</i>		About 1,100 feet downstream of divergence from Lincoln Draw	*1,985
Maps available for inspection at City Hall, Parker, Florida		About 2.8 miles downstream of southern county boundary	*402	At divergence from Lincoln Draw	*1,988
		About 2.4 miles upstream of U.S. Route 50	*421	Chetolah Creek:	
		Kaskaskia River: Within county boundary	*395	At confluence with Big Creek	*1,978
		Maps available for inspection at the County Commissioner's Office, Monroe County Courthouse, Waterloo, Illinois		Just downstream of Interstate 70	*2,025
				Lincoln Draw: Within community	*1,988
				Maps available for inspection at the County Courthouse, Hays, Kansas	
Walton County (Unincorporated Areas), (FEMA Docket No. 6676)		Unincorporated Areas of Randolph County, (FEMA Docket No. 6682)		Ford County (Unincorporated Areas), (FEMA Docket No. 6682)	
<i>Choctawhatchee:</i>		<i>Mississippi River:</i>		<i>Arkansas River:</i>	
About 500 feet upstream River of mouth	*8	At southern county boundary	*385	About 1.3 miles downstream of Coronado Road	*2,429
At upstream county boundary	*52	At northern county boundary	*409	About 2.8 miles upstream of 14th Avenue	*2,506
<i>Alaqua Creek:</i>		Maps available for inspection at the Data Processing Office, 2nd Floor, Randolph County Courthouse, Chester, Illinois		Tributary A:	
At mouth	*5			About 6.9 miles upstream of Wilroads Garden Road	*2,456
About 2,000 feet upstream of State Road 20	*7			At mouth	*2,557
<i>Choctawhatchee Bay:</i>		Washington (City), Tazewell County, (FEMA Docket No. 6682)		Tributary B:	
At shoreline about 0.3 mile north of Stewart Lake	*2	<i>Farm Creek:</i>		About 1.2 miles upstream of Wilroads Garden Road	*2,455
Northern shoreline at eastern county boundary	*4	About 0.9 mile downstream of Peoria Street	*705	At mouth	*2,488
At Little Bayou	*6	About 400 feet downstream of Toledo Peoria and Western Railroad (near Peoria Street)	*717	<i>Sand Creek:</i>	
At Motes Point	*8	Just upstream of Toledo Peoria and Western Railroad (near Peoria Street)	*726	At mouth	*2,437
At mouth of Choctawhatchee River	*10	Just downstream of Abandoned Railroad	*727	About 1.6 miles upstream of Wilroads Garden Road	*2,468
<i>Gulf of Mexico:</i>		Just upstream of Abandoned Railroad	*732	Maps available for inspection at the County Clerk's Office, County Courthouse, Dodge City, Kansas	
At Oyster Lake	*5	About 2,300 feet upstream of Lawndale Avenue	*742		
At shoreline about 1,500 feet south of Morrison Lake	*9	<i>Tributary No. 1:</i>		Hays (City), Ellis County, (FEMA Docket No. 6682)	
Maps available for inspection at the Building Official's Office, County Courthouse, DeFuniak Springs, Florida		At mouth	*727	<i>Chetolah Creek:</i>	
		About 1,600 feet upstream of Westgate Road	*749	Mouth at Big Creek	*1,978
		Maps available for inspection at the City Administrator's Office, City Hall, 115 West Jefferson Street, Washington, Illinois		Just downstream of East 27th Street	*2,016
				<i>Big Creek:</i>	
ILLINOIS		Whiteside County (Unincorporated Areas), (FEMA Docket No. 6682)		At confluence of Chetolah Creek	*1,978
Crawford County (Unincorporated Areas), (FEMA Docket No. 6682)		<i>Mississippi River:</i>		About 1.1 miles upstream of West 12th Street	*2,004
<i>Embaras River:</i>		About 6.1 miles downstream of Chicago and North Western railroad	*587	<i>Big Creek (Landward of Levee):</i>	
About 4.1 miles downstream of confluence of Honey Creek	*439	About 2.1 miles upstream of Lock and Dam No. 13	*594	Just upstream of U.S. Highway 183 Alternate	*1,989
About 4.3 miles upstream of County Route 1	*458			Just downstream of West 8th Street	*1,998
<i>Hutson Creek: Within community</i>	*447	<i>Rock River:</i>		Lincoln Draw Diversion:	
<i>Lamotte Creek:</i>		About 2.0 miles downstream of Hurd Road	*583	Mouth at Chetolah Creek	*1,979
At mouth	*440	At upstream county boundary	*643	At divergence from Lincoln Draw	*1,988
At confluence with Tributary A	*441	Maps available for inspection at the Zoning Administrator's Office, Whiteside County Courthouse, Morrison, Illinois		Lincoln Draw:	
<i>Sugar Creek:</i>				Mouth at Big Creek	*1,988
At mouth	*440			Just downstream of 27th Street	*2,011
About 0.74 mile upstream of County Route 5	*451			Just upstream of 27th Street	*2,018
<i>Tributary A:</i>				Just downstream of 41st Street	*2,041
At confluence of Lamotte Creek	*441			<i>Shallow Flooding (overflow from storm sewer on Lincoln Draw):</i>	
About 0.9 mile upstream of Main Street	*443			About 200 feet upstream of Union Pacific Railroad	*1,989
<i>Wabash River:</i>				At intersection of West 19th Street and Ash Street	*2,006
About 3.2 miles downstream of confluence of Sugar Creek	*434			Maps available for inspection at the City Hall, Hays, Kansas	
About 1.8 miles upstream of confluence of Racoon Creek	*450	KANSAS		Pawnee Rock (City), Barton County, (FEMA Docket No. 6682)	
Maps available for inspection at the County Clerk's Office, Crawford County Courthouse, Robinson, Illinois		Ellis County (Unincorporated Areas), (FEMA Docket No. 6682)		<i>Ash Creek Tributary B:</i>	
		<i>Big Creek:</i>		About 300 feet northeast of intersection of Bismark Avenue and Barton Street	*1,945
		About 1,990 feet upstream of Toulon Road	*1,936	About 300 feet north of the western end of Bismark Avenue	*1,959
		About 8,600 feet upstream of Munjor Road	*1,954	Maps available for inspection at City Hall, Pawnee Rock, Kansas	
		About 2,700 feet downstream of confluence of Chetolah Creek	*1,977	KENTUCKY	
		About 600 feet upstream of Old U.S. Highway 40 (near intersection of U.S. Highway 70 and Old U.S. Highway 40)	*2,046	Henderson (City), Henderson County, (FEMA Docket No. 6682)	
		About 3,900 feet downstream of East 6th Street	*2,105	<i>Ohio River:</i>	
		About 1.2 miles upstream of confluence of Big Creek Tributary No. 2	*2,131	About 2.6 miles downstream of Louisville and Nashville Railroad	*376
		<i>Big Creek (Landward of Levee):</i>		About 2.6 miles upstream of Louisville and Nashville Railroad	*377
		Just upstream of South Main Street	*1,992	<i>Canoe Creek:</i>	
		Just downstream of West 8th Street	*1,998	Just downstream of U.S. Route 60	*376
		<i>Big Creek Tributary No. 1:</i>		About 1.7 miles upstream of confluence of North Fork Canoe Creek	*381
		Mouth at Big Creek	*2,011	<i>North Fork Canoe Creek:</i>	
		Just downstream of Interstate 70	*2,040	At mouth	*379
		<i>Big Creek Tributary No. 2:</i>		Just downstream of Kimsey Lane	*387
		About 1,400 feet upstream of confluence with Big Creek	*2,123		
		About 3,300 feet upstream of confluence with Big Creek	*2,131		
		<i>Big Creek Tributary No. 3:</i>			
		At confluence with Big Creek	*2,111		
		About 5,000 feet upstream of confluence with Big Creek	*2,116		
		<i>Big Creek Overflow:</i>			
		At confluence with Big Creek	*2,105		
		At divergence from Big Creek	*2,110		
Hancock County (Unincorporated Areas), (FEMA Docket No. 6676)					
<i>Mississippi River:</i>					
About 16.5 miles downstream of Toledo, Peoria and Western Railroad	*495				
About 6 miles upstream of Atchison, Topeka, and Santa Fe Railway	*528				
Maps available for inspection at the Supervisor of Assessments Office, Hancock County Courthouse, Carthage, Illinois					

Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)
Sugar Creek:		About 500 feet upstream of Colby Road	*961	At Seboeis Road (extended)	*170
At mouth	*377	Tributary H3:		At upstream corporate limits	*175
About 0.6 mile upstream of Marywood Drive	*408	About 500 feet upstream of mouth	*930	Maps available for inspection at the Town Man- ager's Office, Lincoln Maine.	
Adams Street Tributary:		About 400 feet upstream of Ashford Drive	*949	MARYLAND	
At mouth	*385	Tributary H4:		Rising Sun (Town), Cecil County (FEMA Docket No. 6682)	
About 0.73 mile upstream from mouth	*399	At mouth	*921	Stone Run Tributary 1:	
Highway 60 Tributary:		Just downstream of Windridge Drive	*936	Approximately .06 mile downstream of CON- RAIL	*312
About 500 feet downstream of Gaslight Drive	*414	Just upstream of Windridge Drive	*945	Downstream side of CONRAIL	*328
About 500 feet upstream of Gaslight Drive	*420	Tributary H5:		Approximately 0.2 mile upstream of State Route 273	*352
Kimsey Lane Right Tributary: Within community	*387	About 175 feet upstream of mouth	*908	Stone Run Tributary 2:	
Kimsey Lane Left Tributary:		About 800 feet upstream of confluence of Trib- utary H6	*934	Approximately 0.4 mile downstream of State Route 273	*281
At mouth	*387	Tributary H6:		Approximately 930 feet downstream of State Route 273	*298
Just upstream of Kimsey Lane	*389	At mouth	*924	Approximately 130 feet upstream of State Route 273	*311
Highway 812 Tributary:		Just downstream of Vaught Road	*925	Maps available for inspection at the Town Hall, 114 South Queen Street, Rising Sun, Maryland.	
At mouth	*379	Just upstream of Vaught Road	*930	MASSACHUSETTS	
Just downstream of State Route 812	*383	Just downstream of Vocational School Road	*930	Dennis (Town), Barnstable County (FEMA Docket No. 6640)	
North Fork Cane Creek Tributary:		Just upstream of Vocational School Road	*935	Nantucket Sound:	
At mouth	*383	About 1,100 feet upstream of Vocational School Road	*945	Shoreline at western corporate limits	*15
Audubon Park Creek:		Sinkhole A:		Area between Starboard Way and Port Way	*10
About 0.54 mile downstream of U.S. Route 41	*377	Just upstream of Louisville and Nashville Rail- road	*980	Shoreline at Beaten Road (extended)	*17
About 850 feet upstream of Watson Lane	*422	About 200 feet upstream of Rowland Avenue	*984	Shoreline at Sea Street (extended)	*20
Maps available for inspection at the Municipal Center, 222 First Street, Henderson, Kentucky.		Maps available for inspection at the Planning Department, City Hall, Winchester, Kentucky.		Shoreline at eastern corporate limits	*15
Winchester (City), Clark County, (FEMA Docket No. 6682)		MAINE		Shallow Flooding:	
Strodes Creek:		Boothbay (Town), Lincoln County (FEMA Docket No. 6659)		Dune area approximately 100 feet north of shoreline between Miramar Avenue and Swan Pond River	*2
Just upstream of Interstate 64	*915	Atlantic Ocean:		Dune area between shoreline and Chase Avenue	*1
Just downstream of Chessie System	*927	Shoreline at Dry Point on Reed Island		Cape Cod Bay:	
Tributary S1:		Shoreline at Emerson Road (extended)		Shoreline at western corporate limits	*15
At mouth	*921	Shoreline at west end of Middle Road (ex- tended)		Shoreline at Pilgrim Road (extended)	*16
Just downstream of Chessie System	*924	Shoreline approximately 1,200 feet south of Spruce Shores		Shoreline at Windy Hill (extended)	*17
Tributary S2:		Shoreline at Paradise Point		Area at intersection of Salt Works Road and Cold Storage Road	*11
At mouth	*922	Shoreline 400 feet east of junction of County Routes 840 and 452		Low tide shoreline at Dalton Lane (extended)	*18
Just downstream of Chessie System	*933	Atlantic Ocean: Sheepscot River:		Shoreline at northeastern corporate limits	*15
Just upstream of Chessie System	*953	Entire shorelines of Sheepscot River within community, Back River and Cross River		Bass River:	
Tributary S3:		Atlantic Ocean: Damariscotta River:		Shoreline at Davis Beach Road (extended)	*13
At mouth	*916	Shoreline at Farnham Point		At Main Street bridge Shoreline of Follins Pond at Peter Oliver Road (extended)	*5
Just downstream of Van Meter Road	*916	Shoreline at northern corporate limits		Shoreline at Captain Nickerson Lane (extended)	*7
About 450 feet upstream of U.S. Route 60	*929	Shallow Flooding		Maps available for inspection at the Engineering Office, Town Hall, South Dennis, Massachu- setts.	
About 500 feet upstream of Kittison Drive	*962	Maps available for inspection at the Boothbay Town Hall, Boothbay, Maine.		Duxbury (Town), Plymouth County (FEMA Docket No. 6625)	
Tributary S4:		Boothbay Harbor (Town), Lincoln County (FEMA Docket No. 6648)		Massachusetts Bay:	
Just upstream of Interstate 64	*939	Atlantic Ocean (Lincoln Bay):		Shoreline at most southern corporate limits	*17
About 220 feet upstream of Bon Haven Avenue	*965	Shoreline at eastern corporate limits		Shoreline approximately 1.2 miles north of southern corporate limits	*16
Tributary S5:		Shoreline at Wall Point Road (extended)		Duxbury Beach approximately 0.9 mile south from Powder Point bridge	*15
At mouth	*918	Shoreline at Spruce Point		Shoreline at northern corporate limits	*19
About 1,000 feet upstream of mouth	*920	(Boothbay Harbor):		Duxbury Bay:	
Town Branch:		Shoreline approximately 400 feet south of Fac- tory Cove Road (extended)		Shoreline at southern corporate limits	*10
About 200 feet upstream of the confluence of Tributary T3	*914	Shoreline approximately 400 feet southeast of Commercial Street (extended)		Shoreline at Water Road (extended)	*13
Just downstream of the Louisville and Nashville Railroad	*928	(Townsend Gut):		Shoreline at Spring Street (extended)	*14
Just upstream of the Louisville and Nashville Railroad	*937	Shoreline at Juniper Point		Kingston Bay:	
About 400 feet upstream of Pearl Street	*939	Shoreline at western corporate limits		Shoreline at Howlands Landing (extended)	*11
Tributary T1:		Southwestern shoreline of Isle of Springs		Shoreline at Landing Road (extended)	*14
At mouth	*937	Shallow Flooding:		Shoreline at Mortons Hole (extended)	*13
Just upstream of Washington Street	*953	Dunes in the vicinity of Factory Cove Road		Shallow Flooding:	
Tributary T2:		Maps available for inspection at the Boothbay Harbor Town Hall, Boothbay Harbor, Maine.		Between shorelines at Duxbury Beach	*1-2
At mouth	*916	Howland (Town) Penobscot County (FEMA Docket No. 6645)		Between seawall and Gurnet Road	*2
Just downstream of Interstate 64	*920	Penobscot River:		Jones River: Corporate limits approximately 400 feet west of Parks Street	*9
Just upstream of Interstate 64	*926	Downstream corporate limits		Bluish River:	
Just downstream of U.S. Route 60	*947	At State Route 155		Approximately 1,000 feet downstream of Wash- ington Street bridge	*12
Just upstream of U.S. Route 60	*952	Upstream side of Stanford Dam		Upstream side of Washington Street bridge	*13
About 250 feet upstream of Mutual Avenue	*954	Approximately 2.23 miles upstream of Stanford Dam			
Tributary T3:		Upstream corporate limits			
Just upstream of Interstate 64	*934	Piscataquis River:			
About 700 feet upstream of Waveland Avenue	*969	At confluence with Penobscot River			
Tributary T4:		Approximately .81 mile upstream of confluence with Penobscot River			
At mouth	*945	Upstream side of Interstate 95 (southbound)			
Just upstream of West Washington Street	*954				
Lower Howard Creek:					
About 250 feet upstream of confluence of Trib- utary H5	*908				
Just downstream of State Route 1956	*913				
Just upstream of State Route 1958	*921				
Just upstream of Lina Lane	*956				
Tributary H1:					
At mouth	*941				
Just downstream of Hood Avenue	*955				
Just upstream of Hood Avenue	*960				
About 500 feet upstream of Boone Avenue	*972				
Tributary H2:					
At mouth	*939				
Just downstream of Colby Road	*950				
Just upstream of Colby Road	*959				

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 0.4 mile upstream of Washington Street bridge.....	*9	Maps available for inspection at the City Engineering Department, Everett, Massachusetts.		Town Brook:	
Pine Point River:				Upstream end of channel leading to culvert to Hingham Harbor.....	*11
At mouth of Pine Point River.....	*12			Downstream side of South Street.....	*18
At northern corporate limits.....	*11			Approximately 0.19 mile upstream Country Club entrance.....	*22
Little Wood Island River:		Falmouth (Town), Barnstable County (FEMA Docket No. 8665)		Accord Brook:	
At mouth of Little Island Wood River.....	*11	Buzzards Bay:		Mast Hill Road (extended).....	*108
At northern corporate limits.....	*11	Shoreline at County Road (extended).....	*19	Upstream side of Prospect Street.....	*114
Duck Hill River: Shoreline at Cove Street (extended).....	*11	Shoreline at Circle Drive (extended).....	*22	Approximately 290 feet upstream of Main Street (State Route 28).....	*125
Maps available for inspection at the Duxbury Town Clerk's Office, Tremont Street, Duxbury, Massachusetts.		Area 0.4 mile southeast of Crow Point.....	*2	Eel River:	
		Shoreline 1 mile southeast of Chappaquod Point.....	*22	Approximately 100 feet downstream of Cushing Street.....	*50
Eastham (Town), Barnstable County (FEMA Docket No. 6640)		Shoreline 0.25 mile northeast of Hamlin Point.....	*26	Upstream side of Stagecoach Road.....	*56
Cape Cod Bay:		Shoreline 700 feet south of Hamlin Point.....	*22	Approximately 600 feet upstream of Brewster Road.....	*100
Shoreline at Sunset Village Road (extended).....	*20	Shoreline 0.28 mile south of Hamlin Point.....	*19	Turkey Hill Run:	
Shoreline at Thumpertown Road (extended).....	*25	Shoreline at north end of Racing Beach Avenue (extended).....	*26	Upstream Rockland Street.....	*12
Shoreline at Campground Road (extended).....	*17	Shoreline at The Knob.....	*14	Downstream side of Hull Street.....	*18
Area approximately 470 feet southeast from intersection of Samoset Road and Sunset Village Road.....	*11	Shoreline 0.47 mile southeast of Gansett Point.....	*23	At CONRAIL.....	*38
Shoreline at northern corporate limits.....	*17	Shoreline at Gansett Point.....	*13	Approximately 100 feet upstream of East Street.....	*39
Ponding area between Valley McGuerty and Campground Road.....	*13	Shoreline 0.34 mile southwest of Gansett Point.....	*18	Maps available for inspection at the Hingham Planning Board, Hingham, Massachusetts.	
West of Marmes Way.....	*2	Shoreline 0.79 mile southwest of Gansett Point.....		Lincoln (Town), Middlesex County (FEMA Docket No. 6604)	
Hatches Creek:		Shoreline 500 feet northwest of Penzance Point.....		Sudbury River:	
Shoreline at downstream Creek corporate limits.....	*14	Vineyard Sound:		Downstream corporate limits.....	*122
Area between Marmes Way and North Sunken Meadow Road.....	*11	Northwest shoreline of Flam Island.....	*12	Approximately 2,800 feet upstream of South Great Road.....	*122
Area north of Massasoit Road at northern corporate limits.....	*12	Shoreline at Gosnold Road (extended).....	*17	Farrar Pond Brook:	
Herring River:		Shoreline at Juniper Point.....	*21	Confluence with Farrar Pond.....	*122
Area 800 feet northwest of intersection of Bridge Road and Governor Pence Road.....	*11	Shoreline at Nobska Point.....	*27	Upstream of second Earth Dam.....	*164
Shoreline at Samoset Road (extended).....	*14	Shoreline 1.3 miles north of Nobska Point.....	*17	Farrar Pond/Pole Brook:	
Boat Meadow River:		Ponding area 400 feet east of intersection of Oyster Pond Road and Fay Road.....	*15	Confluence with Sudbury River.....	*122
Shoreline at confluence with Cape Cod Bay.....	*15	Shoreline 0.3 mile east of mouth of Falmouth Inner Harbor.....	*27	Approximately 300 feet downstream of Concord Road.....	*146
Downstream side of Bridge Road crossing.....	*14	Shoreline of Devils Foot Island.....	*17	Lincoln Road (upstream side).....	*168
Upstream side of Bridge Road crossing.....	*11	Maps available for inspection at the Town Clerk's Office, Town Hall, Falmouth, Massachusetts.		Hobbs Brook:	
Rock Harbor Creek:		Gosnold (Town), Dukes County (FEMA Docket No. 6676)		Downstream corporate limits.....	*173
Entire shoreline within community.....	*12	Vineyard Sound:		Approximately 2,000 feet upstream of Mill Street.....	*182
Shoreline at confluence with Cape Cod Bay.....	*15	Approximately 0.5 mile west of Jobs Neck.....	*11	Story Brook:	
Atlantic Ocean:		Shoreline at Fox Point.....	*16	Approximately 970 feet downstream of Tower Road.....	*169
Shoreline at mouth of Salt Pond Bay.....	*17	Shoreline of Nashewena Island south of Middle Pond.....	*28	Tower Road (upstream side).....	*176
Shoreline at Salt Pond Bay at Hemen Way Road (extended).....	*13	Shoreline of Cuttyhunk Island south of intersection of Bayberry Hill Road and Bayview Drive.....	*30	Ballfield Road (upstream side).....	*208
Shoreline at Nauset Bay at Pinecrest Drive bridge.....	*10	Buzzards Bay:		Approximately 600 feet upstream of Sandy Pond Road.....	*238
Shoreline at approximately 2.1 miles north of southern corporate limits.....	*15	Shoreline at Knox Point.....	*11	Valley Pond: Entire shoreline within corporate limits.....	*176
Shoreline at Doane Road (extended).....	*25	Shoreline of Western Pond.....	*12	Maps available for inspection at the Clerk's Office, Lincoln, Massachusetts.	
Shoreline approximately 2.0 miles south of southern corporate limits.....	*39	Shoreline at Timmy Point.....	*13	Medford (City), Middlesex County (FEMA Docket No. 6682)	
Shoreline east of north end of Nauset Light Road.....	*32	Entire shoreline of Weepecket Islands.....	*14	Mystic River:	
Shoreline at northern corporate limits.....	*24	Shoreline of Nashewena Island east of North Point.....	*16	At southern corporate limits and upstream side of MBTA Bridge.....	*4
West of shoreline approximately 1.6 miles north of southern corporate limits.....	*1	Maps available for inspection at the Town Hall, Cuttyhunk, Massachusetts.		Upstream side of High Street.....	*9
West of shoreline approximately 1.9 miles north of southern corporate limits.....	*1	Hingham (Town), Plymouth County (FEMA Docket No. 6645)		Lower Mystic Lake: North of Lake View Road and south of Mystic River Road (extended).....	*9
Shallow flooding east of Nauset Bay approximately 2.3 miles north of southern corporate limits.....	*2	Weymouth Back River:		Upper Mystic Lake: North of Mystic River Road (extended) and west of Mystic Valley Parkway.....	*14
Ponding area west of shoreline approximately 1.6 miles south of northern corporate limits.....	*11	Shoreline at Beal Cove.....	*12	Malden River:	
Shallow flooding west of shoreline approximately 1.6 miles south of northern corporate limits.....	*2	Shoreline at Foley Beach Road (extended).....	*15	At southern corporate limits and downstream side of MBTA Bridge.....	*4
Town Cove:		Hingham Bay:		At eastern corporate limits and approximately 3,300 feet north of Revere Beach Parkway.....	*4
Shoreline at southern corporate limits.....	*12	Shoreline at Malcolm Street (extended).....	*15	Maps available for inspection at the Community Development Department, City Hall, Medford, Massachusetts.	
Shoreline approximately 1.0 mile northeast of southern corporate limits.....	*11	West shoreline at Worlds End.....	*11	Nantucket (Town), Nantucket County (FEMA Docket No. 6658)	
Maps available for inspection at the Town Clerk's Office, Eastham, Massachusetts.		Hingham Harbor:		Atlantic Ocean:	
		Shoreline at Ship Street (extended).....	*14	Shoreline at Great Point.....	*15
Everett (City), Middlesex County (FEMA Docket No. 6662)		Shoreline at Justice/Cushing Way (extended).....	*11	Shoreline at Ouldnat Road (extended).....	*16
Atlantic Ocean: Entire shorelines of Mystic River and Island End River within community.....	*10	Weir River:		Shoreline at Hoicks Hollow Road (extended).....	*20
Malden River:		East shoreline at Worlds End.....	*14	Shoreline at confluence of Sasachucha Pond.....	*11
Upstream side of Amelia Earhart Dam.....	*4	Shoreline at Gifford Road (extended).....	*11	Shoreline at New Street (extended).....	*15
At northwestern corporate limits (extended), located approximately 775 feet north of Woodville Street (extended).....	*4	Shoreline at Cliff Road (extended).....	*12	Shoreline at Jonathan Road (extended).....	*11
		Foundry Pond.....	*16	Shoreline at Central Avenue (extended).....	*23
		Upstream side of State Route 228.....	*22	Shoreline at Wannacomit Street (extended).....	*14
		Upstream side of Leavitt Street.....	*27		
		Crooked Meadow River:			
		Upstream side of Free Street.....	*29		
		Downstream side of Cushing Pond Dam.....	*44		
		Approximately 90 feet upstream of State Route 228.....	*29		
		Plymouth River:			
		Upstream side of Ward Street.....	*56		
		Downstream side of Ward Street.....	*51		
		Upstream side of Old Ward Street.....	*62		
		Approximately 0.39 mile upstream of Old Ward Street.....	*65		

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Shoreline at Somerset Road (extended).....	*13	Browns Valley (City), Traverse County (FEMA Docket No. 6682)		About 1.4 miles upstream of Old Haring Mill Road.....	*833
Shoreline at Sheep Pond Road (extended).....	*13	<i>Little Minnesota River:</i>		Maps available for inspection at City Hall, Corner of 4th & Market Streets, Fulton, Missouri.	
Shoreline at Miacomet Pond approximately 700 feet north of Atlantic Ocean.....	*7	About 0.4 mile downstream of Fourth Street.....	*976	NEBRASKA	
<i>Atlantic Ocean: Shallow Flooding:</i>		About 0.7 mile upstream of Broadway.....	*986	Blue Springs (City), Gage County, (FEMA Docket No. 6682)	
Dune Area east of intersection of Great Point Road and Wauwinet Road.....	#1	<i>Unnamed Coulee:</i>		<i>Big Blue River:</i>	
Dune Area approximately 1,300 feet north of intersection of Chase Lane and Squam Road.....	#2	About 1,500 feet downstream of Broadway.....	*976	About 0.45 mile downstream of the confluence of Bills Creek.....	*1,216
Dune Area approximately 600 feet south of intersection of Madaket Road and Chicago Street.....	#1	About 350 feet upstream of Burlington Northern railroad.....	*980	About 0.44 mile upstream of Broad Street.....	*1,218
Shallow flooding approximately 250 feet east of end of New South Road.....	*13	Maps available for inspection at the City Hall, 3rd Street South, Browns Valley, Minnesota.		Maps available for inspection at the City Hall, Blue Springs, Nebraska.	
Shallow flooding at Mixes Pond.....	*9	Chippewa County (Unincorporated Areas) (FEMA Docket No. 6682)		Stromsburg (City), Polk County (FEMA Docket No. 6682)	
Shallow flooding at Sheep Pond.....	*7	<i>Minnesota River:</i>		<i>Big Blue River:</i>	
Shallow flooding at Reedy Pond.....	*9	At downstream county boundary.....	*881	About 3.39 miles downstream of U.S. Highway 81.....	*1,614
<i>Nantucket Sound:</i>		Just downstream of Northern States Power Company Dam.....	*886	About 1.38 miles upstream of U.S. Highway 81.....	*1,626
Wharf between Straight Wharf and Commercial Wharf and east of New Whale Street.....	*11	Just upstream of Northern States Power Company Dam.....	*893	Maps available for inspection at the City Hall, Stromsburg, Nebraska.	
Entire shoreline of Coskata Pond.....	*8	At upstream county boundary.....	*943	NEW HAMPSHIRE	
Shoreline at Proprietor's Road (extended).....	*8	Maps available for inspection at the Chippewa County Courthouse, Montevideo, Minnesota.		Hampton (Town), Rockingham County (FEMA Docket No. 6649)	
Entire shoreline at Polpis Harbor.....	*8	Ortonville (City), Big Stone County (FEMA Docket No. 6682)		<i>Atlantic Ocean:</i>	
Shoreline at Five Finger Point.....	*10	<i>Minnesota River:</i>		Shoreline at southern corporate limits.....	*14
Shoreline at Pocomo Head.....	*8	About 0.50 mile downstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad (near Mill Road).....	*964	Area west of shoreline at southern corporate limits and east of Ocean Drive.....	*12
Maps available for inspection at the Office of Nantucket Planning and Economic Development Office, Town & County Building, Nantucket, Massachusetts.		About 1.90 miles upstream of County Highway 30.....	*970	West side of U.S. Route 1A bridge over Hampton Harbor.....	*9
Stoneham (Town), Middlesex County (FEMA Docket No. 6682)		Maps available for inspection at the City Hall, 315 Madison Avenue, Ortonville, Minnesota.		Downstream of Towle Farm Road bridge over Taylor River.....	*9
<i>Sweetwater Brook:</i>		Swift County (Unincorporated Areas) (FEMA Docket No. 6648)		Area east of U.S. Route 1A and west of shoreline approximately 1.0 mile north of southern corporate limits.....	*11
Approximately 400 feet downstream of Maple Avenue.....	*49	<i>Lac Qui Parle: Within community.....</i>	*943	Shoreline at North Beach.....	*20
Upstream side of Montvale Avenue.....	*54	<i>Minnesota River:</i>		Shoreline approximately 0.3 mile south of northern corporate limits.....	*24
Approximately 270 feet downstream of Lindenwood Road.....	*55	About 1,700 feet downstream of State Highway 119.....	*943	Shoreline at northern corporate limits.....	*14
Downstream side of Lindenwood Road.....	*61	Just downstream of Marsh Lake Dam.....	*944	<i>Shallow Flooding:</i>	
Approximately 70 feet upstream of Lindenwood Road.....	*65	<i>Marsh Lake: Within community.....</i>	*946	Area between shoreline of Hampton Harbor inlet and Thornton Avenue.....	#2
Maps available for inspection at the City Clerk's Office, 35 Central Street, Stoneham, Massachusetts.		<i>Pomme de Terre River:</i>		Area west of Great Boars Head on U.S. Route 1A.....	#1
Yarmouth (Town), Barnstable County (FEMA Docket No. 6645)		About 2.2 miles downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.....	*972	Area west of shoreline and east of Meadow Pond.....	#1
<i>Nantucket Sound:</i>		About 2.4 miles upstream of Burlington Northern railroad.....	*1,002	Area approximately 0.34 mile south of northern corporate limits west of shoreline and east of Ocean Boulevard.....	#1
Shoreline at Bayview Street (extended).....	*16	Maps available for inspection at the Swift County Courthouse, 301 14th Street North, Benson, Minnesota.		Area west of shoreline and east of Ocean Boulevard.....	#1
Shoreline at Beach Road (extended).....	*13	MISSOURI		Maps available for inspection at the Town Clerk's Office, Hampton, New Hampshire.	
Shoreline at Smith's Road.....	*10	Fulton (City), Callaway County (FEMA Docket No. 6676)		North Hampton (Town), Rockingham County (FEMA Docket No. 6649)	
Shoreline at Point Gammon.....	*19	<i>Stinson Creek:</i>		<i>Winnicut River:</i>	
Shoreline 500 feet west of Bass River Light.....	*15	About 1,800 feet downstream of the confluence of Smith Branch.....	*692	At downstream corporate limits.....	*41
<i>Cape Cod Bay:</i>		About 1,000 feet upstream of U.S. Highway 54.....	*770	Upstream side of Walnut Avenue.....	*48
Shoreline at mouth of Lone Tree Creek.....	*15	<i>Smith Branch:</i>		Upstream side of North Hampton Road.....	*63
Shoreline at mouth of Chase Garden Creek.....	*17	At mouth.....	*696	At upstream corporate limits.....	*57
<i>Bass River:</i>		Just downstream of County highway O.....	*721	<i>Little River:</i>	
Shoreline at Bass River Terrace (extended).....	*13	About 0.7 mile upstream of Westminster Avenue.....	*820	Upstream side of Woodland Road.....	*10
Shoreline at Highland Avenue (extended).....	*9	<i>Whitlow Branch:</i>		Approximately 5 mile upstream of Woodland Road.....	*17
Shoreline at Oyster Cove Road (extended).....	*7	At mouth.....	*712	Approximately 80 feet downstream of upstream dam.....	*27
Entire shoreline of Follins Pond.....	*5	Just downstream of Mokane Road.....	*724	Upstream side of upstream dam.....	*35
<i>Parkers River:</i>		Just upstream of Mokane Road.....	*730	Approximately 65 feet upstream of Mill Road.....	*39
Shoreline at Compass Drive (extended).....	*11	About 900 feet upstream of East Reed Street.....	*794	<i>Shallow Flooding:</i>	
South end of Niagara Lane.....	*13	<i>Big Hollow Creek:</i>		Southeast of intersection of Appledore Avenue with Ocean Boulevard.....	#1
Entire shoreline of Swan Pond.....	*9	About 700 feet downstream of Cote Sans Dessein Road.....	*780	West side of Ocean Boulevard from intersection with Willow Avenue to northern corporate limits.....	#1
Maps available for inspection at the office of Mr. Ed Donnelly, Town Planner, Yarmouth Town Hall, South Yarmouth, Massachusetts.		About 270 feet downstream of U.S. Highway 54.....	*792	<i>Atlantic Ocean:</i>	
MINNESOTA		Just upstream of U.S. Highway 54.....	*799	Area in the vicinity of Philbrick Pond.....	*9
Big Stone County (Unincorporated Areas) (FEMA Docket No. 6682)		About 500 feet upstream of U.S. Highway 54.....	*801	Area in the vicinity of Little River downstream of Woodland Road.....	*9
<i>Minnesota River:</i>		<i>Westminster Branch:</i>			
At eastern county boundary.....	*945	At mouth.....	*735		
Just downstream of U.S. Highway 75 dam.....	*948	About 1,200 feet upstream of West Seventh Street.....	*782		
Just upstream of U.S. Highway 75 dam.....	*957	<i>Dunlap Creek:</i>			
At Big Stone Lake inlet.....	*970	Just upstream of Old Haring Mill Road.....	*772		
<i>Little Minnesota River:</i>					
At Big Stone Lake inlet.....	*970				
At northern county boundary.....	*971				
Maps available for inspection at Big Stone County Courthouse, 20 S.E. Street, Ortonville, Minnesota.					

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Shoreline at northern corporate limits.....	*19	<i>Hackensack River Bypass:</i>		Dresden (Town), Washington County (FEMA Docket No. 6682)	
Shoreline approximately 500 feet south of northern corporate limits.....	*23	At downstream confluence with Hackensack River.....	*12	<i>Lake Champlain:</i> Entire shoreline within community.....	*102
Shoreline at Atlantic Avenue (extended).....	*19	Upstream side of Elm Street.....	*14	Maps available for inspection at the Town Hall, Clemens, New York.	
Shoreline at southern corporate limits.....	*14	At upstream confluence with Hackensack River.....	*16	Easton (Town), Washington County (FEMA Docket No. 6682)	
Maps available for inspection at the Town Clerk's Office, Town Hall, North Hampton, New Hampshire.		Maps available for inspection at the Oradell Borough Hall, Oradell, New Jersey.		<i>Hudson River:</i>	
Rye (Town), Rockingham County (FEMA Docket No. 6682)		Pequanock (Township), Morris County (FEMA Docket No. 6645)		Downstream corporate limits.....	*94
<i>Atlantic Ocean:</i>		<i>Pompton River:</i>		At confluence of Flatly Brook.....	*98
Shoreline at Causeway Road (extended).....	*19	At downstream corporate limits.....	*181	Upstream corporate limits.....	*101
Entire shoreline of Eel Pond.....	*9	Approximately 200 feet upstream of State Route 23.....	*183	Maps available for inspection at the Easton Town Hall, Easton, New York.	
Shoreline at Cable Road (extended).....	*17	At confluence with Pequannock River and Ramapo River.....	*186	Goshen (Town), Orange County (FEMA Docket No. 6645)	
Shoreline at Concord Point.....	*14	<i>Pequanock River:</i>		<i>Walkkill River:</i>	
Shoreline approximately 700 feet south of intersection of Pioneer and Parsons Roads.....	*22	At confluence with Pompton River.....	*186	At downstream corporate limits.....	*366
Shoreline at Sheafes Point.....	*12	At upstream corporate limits.....	*189	Upstream side of New York Routes 6 and 17M.....	*376
Entire shoreline of Sagamore Creek within community.....	*9	<i>Ramapo River:</i>		Upstream side of Maple Avenue.....	*382
Entire shoreline of Lunging Island.....	*15	At confluence with Pompton River.....	*186	Confluence with Walkkill River.....	*368
Entire shoreline of White Island.....	*20	At upstream corporate limits.....	*186	Upstream side of 6½ Station Road.....	*380
Eastern shoreline of Star Island.....	*20	<i>East Ditch:</i>		At Village of Goshen corporate limits.....	*412
<i>Shallow Flooding:</i>		At downstream corporate limits.....	*180	<i>Quaker Creek:</i>	
Area along Ocean Boulevard from Causeway Road to Jenness Road.....	*1	Approximately 200 feet upstream of Sunset Road.....	*189	Approximately 1,500 feet downstream of Pulaski Highway.....	*384
Area along Old Beach Road.....	*1	At downstream side of Mountain Avenue.....	*198	Downstream side of Pumpkin Swamp Road.....	*387
Rye Harbor Road near mouth of Rye Harbor.....	*2	<i>West Ditch:</i>		At confluence of Brown Creek.....	*400
Area along Ocean Boulevard approximately 2 mile south of Concord Point.....	*1	At downstream corporate limits.....	*193	<i>Brown Creek:</i>	
Area along Pioneer Road between Fairhill Avenue and Tuna Drive.....	*1	Downstream side of Sunset Road.....	*208	At confluence with Quaker Creek.....	*400
Area approximately 0.2 mile south of Frost Point and 300 feet from shoreline in Fort Dearborn.....	*1	At upstream corporate limits.....	*218	Upstream side of First Private Drive.....	*422
Maps available for inspection at the Planning Board, Town Clerk's Office, Town Hall, Rye, New Hampshire.		<i>Tributary to East Ditch:</i>		Approximately 0.8 mile upstream of New York Route 94.....	*447
Seabrook (Town), Rockingham County (FEMA Docket No. 6682)		At confluence with East Ditch.....	*191	<i>Otter Kill:</i>	
<i>Atlantic Ocean:</i>		Approximately 300 feet upstream of Mountain View Road.....	*236	At downstream corporate limits.....	*366
Shoreline at north corporate limits.....	*14	Maps available for inspection at the Pequannock Municipal Building, 530 Newark Pompton Turnpike, Pequannock, New Jersey.		Upstream side of Craigville Road.....	*374
Approximately 1,700 feet east of Eisenhower Street along corporate limits.....	*12	NEW YORK		Upstream side of Old Chester Road.....	*408
Shoreline at south corporate limits.....	*14	Attica (Town), Wyoming County (FEMA Docket No. 6676)		Approximately 0.4 mile upstream of Maple Avenue.....	*435
Entire shoreline of Mill Creek.....	*9	<i>Tonawanda Creek:</i>		<i>Otter Kill, Tributary 12:</i>	
Entire shoreline of Brown River within community.....	*9	Downstream corporate limits.....	*975	Confluence with Otter Kill.....	*368
Entire shoreline of Blackwater River within community.....	*9	Approximately 200 feet downstream of Dunbar Road bridge.....	*984	Upstream side of Coleman Road.....	*382
Maps available for inspection at the Building Inspector's Office, Town Hall, 99 Lafayette Road, Seabrook, New Hampshire.		Approximately 100 feet upstream of Dunbar Road bridge.....	*990	Approximately 50 feet upstream of Craigville Road.....	*398
NEW JERSEY		Approximately 3,800 feet downstream of State Route 98 bridge.....	*997	<i>Black Meadow Brook:</i>	
Fairfield (Township), Essex County (FEMA Docket No. 6676)		Approximately 2,500 feet downstream of State Route 98 bridge.....	*1,003	Confluence with Otter Kill.....	*379
<i>Passaic River:</i>		Approximately 200 feet downstream of State Route 98 bridge.....	*1,008	Upstream side of Old Chester Road.....	*387
Downstream corporate limits.....	*171	Maps available for inspection at the Town Clerk's Office, 108 West Avenue, Attica, New York 14001.		At upstream corporate limits.....	*405
Upstream corporate limits.....	*174	Attica (Village), Wyoming and Genesee Counties (FEMA Docket No. 6676)		Maps available for inspection at the Clerk's office and the Building Inspector's office, Goshen Town Hall, Goshen, New York.	
<i>Deepavaal Brook:</i>		<i>Tonawanda Creek:</i>		Goshen (Village), Orange County (FEMA Docket No. 6684)	
At confluence with Passaic River.....	*172	Approximately 450 feet downstream of corporate limits.....	*954	<i>Rio Grande:</i>	
Approximately 200 feet downstream of Clinton Road.....	*173	Upstream side of Main Street.....	*968	At downstream corporate limits.....	*412
<i>Green Brook:</i>		Approximately 350 feet upstream of corporate limits.....	*975	Approximately 520 feet upstream of Greenwich Avenue.....	*433
At confluence with Deepavaal Brook.....	*172	Maps available for inspection at the Village Hall, 9 Water Street, Attica, New York.		Maps available for inspection at the Village Hall, Goshen, New York.	
Downstream side of Passaic Avenue.....	*180	Bolton (Town), Warren County (FEMA Docket No. 6682)		Greenwich (Town), Washington County (FEMA Docket No. 6682)	
At upstream corporate limits.....	*227	<i>Schroon River:</i>		<i>Hudson River:</i>	
Maps available for inspection at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey.		Downstream corporate limits.....	*689	Downstream corporate limits.....	*101
Oradell (Borough), Bergen County (FEMA Docket No. 6676)		Upstream side of Bolton-Riverbank Road.....	*703	Approximately 600 feet downstream of Thomson Dam.....	*102
<i>Hackensack River:</i>		Upstream corporate limits.....	*728	Upstream side of Thomson Dam.....	*109
Downstream corporate limits.....	*12	Maps available for inspection at the Bolton Town Hall, Stewart Avenue, Bolton Landing, New York.		Upstream corporate limits.....	*112
Upstream side of New Milford Avenue Dam.....	*16	<i>Maps available for inspection at the Bolton Town Hall, Stewart Avenue, Bolton Landing, New York.</i>		Maps available for inspection at 2 Academy Street, Greenwich, New York.	
Upstream side of Oradell Reservoir Dam.....	*25			Hamptonburgh (Town), Orange County (FEMA Docket No. 6658)	
Upstream corporate limits.....	*25			<i>Wallkill River:</i>	
				Downstream corporate limits.....	*359
				Upstream side of CONRAIL.....	*361
				Upstream corporate limits.....	*363

Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)
Otter Kill:		Maps available for inspection at the Whitehall Town Hall, Whitehall, New York.		Along shoreline from western corporate limits to about 1 mile east.	*19
Downstream corporate limits	*323			Maps available for inspection at the Town Hall, Caswell Beach, North Carolina.	
Upstream side of second upstream crossing of CONRAIL	*348	NORTH CAROLINA			
Upstream side of second crossing of Route 207	*358				
Upstream corporate limits	*366	Brunswick County (Unincorporated Areas) (FEMA Docket No. 6676)		Kure Beach (Town), New Hanover County (FEMA Docket No. 6665)	
Otter Kill Tributary 11:		Atlantic Ocean:		Atlantic Ocean:	
Confluence with Otter Kill	*366	About 1 mile south of the mouth of New Inlet at Cape Fear River	*9	About 200 feet east of the intersection of U.S. Highway 421 and Dow Avenue	*14
Approximately 1,550 feet upstream of Purgatory Road	*366	At Bowen Point	*14	About 50 feet east of the intersection of M Avenue and Atlantic Avenue	*14
Gronline Creek:		At confluence of Lockwoods Folly River	*15	Along shoreline	*16
Downstream corporate limits	*322	Along southern shoreline at Fort Caswell	*17	Maps available for inspection at Town Hall, 115 North 3rd Street, Kure Beach, North Carolina.	
Approximately 0.5 mile upstream of upstream corporate limits	*325	State Boundary line at southernmost tip of County	*19		
Maps available for inspection at the Town Hall, Hamptonburgh, New York.		Indian Creek:		Unincorporated Areas of New Hanover County (FEMA Docket No. 6676)	
		At mouth	*8	Atlantic Ocean:	
Lake George (Town), Warren County (FEMA Docket No. 6676)		At 0.5 mile upstream of State Road 1453	*12	Along Snows Cut shoreline from U.S. Route 421 crossing to about 2,000 feet east	*10
Schroon River:		Cherry Tree Prong:		Along eastern shoreline of Intracoastal Water- way from Nixon Channel to Carolina Beach Inlet	*12
At downstream corporate limits	*687	About 2,300 feet downstream of State Route 1426	*12	Along shoreline from about 4.4 miles northeast of Carolina Beach Inlet to the Southern County boundary	*16
Approximately 92 feet upstream side of U.S. Route 9	*688	Just downstream of State Route 1426	*13	Along shoreline from about 3.5 miles southwest of Masonboro Inlet to about 1.2 miles north- east of Bridge Road	*17
At upstream corporate limits	*689	About 0.9 mile upstream of State Route 1426	*27	Northeast Cape Fear River:	
Maps available for inspection at the Town Center, Old Post Road, Lake George, New York.		Jackeys Creek:		Along shoreline from the confluence of Island Creek to the confluence of Prince George Creek	*8
		At mouth	*10	At mouth	*10
North Salem (Town), Westchester County (FEMA Docket No. 6665)		About 2,100 feet upstream of U.S. abandoned railroad	*22	Cape Fear River:	
Titicus River:		Lookout Creek:		At confluence Catfish Creek	*8
At confluence with Titicus Reservoir	*326	At mouth	*11	At confluence of Northeast Cape Fear River	*10
Upstream side of June Road	*343	About 1,700 feet upstream of NC 130	*37	Bradley Creek:	
Upstream side of New York Route 121	*377	Mallory Creek:		Just downstream of U.S. Route 76	*11
Upstream side of dam	*455	At mouth	*10	About 2,800 feet upstream of Mallard Street	*21
Upstream side of Keeler Lane	*461	Just upstream of Wire Spur Road	*22	Bradley Creek Tributary:	
Upstream side of Norton Lane	*493	Mallory Creek Tributary		At mouth	*11
At upstream corporate limits	*496	At mouth	*10	Just upstream of Eastwood Road	*19
Crook Brook:		Just upstream of wire Road	*23	Island Creek:	
At confluence with Titicus River	*331	Mulberry Branch:		At confluence with Northeast Cape Fear River	*8
Approximately 1,600 feet downstream of New York Route 121	*356	At mouth	*11	Just downstream of Sidbury River	*18
Upstream side, most downstream crossing of Hawley Road	*386	About 1,550 feet upstream of SR 1348	*20	Kings Grant Tributary:	
Upstream side, most upstream crossing of Hawley Road	*452	Calabash Creek: Within community		At mouth	*10
Maps available for inspection at the Town House, c/o Town Clerk, North Salem, New York.		Calabash River: Within community		Just downstream of Gordon Road	*32
		Lockwoods Folly River:		Murrayville Tributary:	
Patterson (Town), Putnam County (FEMA Docket No. 6665)		About 3,000 feet upstream of NC 211	*9	At mouth	*20
East Branch Croton River:		About 400 feet downstream of SR 1401	*32	About 1,100 feet upstream of Murrayville Road	*27
At downstream corporate limits	*429	Pinch Gut Creek:		Ness Creek:	
At confluence with Haviland Hollow Brook	*431	About 400 feet downstream of SR 1401	*32	At confluence with Northeast Cape Fear River	*9
At upstream corporate limits	*435	Just upstream of Rouark Road	*49	About 200 feet upstream of Castle Hayne Road	*26
Haviland Hollow Brook:		Sharon Creek: Along shoreline from the mouth to about 2.3 miles upstream		Prince George Creek:	
At confluence with East Branch Croton River	*431	At mouth	*11	At mouth	*8
Upstream side of Brimstone Road	*461	Shallotte River:		Just downstream of Sidbury Road	*28
At upstream corporate limits	*503	About 0.6 mile downstream of U.S. Route 17	*11	Prince George Creek Tributary:	
Muddy Brook:		About 2,400 feet upstream of U.S. Route 17	*14	At mouth	*15
At confluence with East Branch Croton River	*433	At mouth	*12	Just upstream of Parmele Road	23
Upstream side of CONRAIL	*450	Just downstream of NC 130	*20	Smith Creek:	
First crossing of upstream side of New York Route 311	*470	Just upstream of NC 130	*25	At mouth	*9
Upstream side of second crossing of New York Route 311	*516	About 0.9 mile upstream of NC 130	*33	About 1.75 miles upstream of confluence of Murrayville Tributary	*36
Muddy Brook Tributary 1:		Shallotte Creek Tributary:		Spring Branch:	
At confluence with Muddy Brook	*433	At mouth	*12	At mouth	*9
Upstream side of New York Route 311	*454	Just downstream of NC 130	*18	Just downstream of College Road	*21
Upstream side of New York Route 292	*550	Just upstream of NC 130	*22	Mott Creek:	
At upstream corporate limits	*613	About 1.0 mile upstream of NC 130	*29	At mouth	*10
Stephens Brook:		Sturgeon Creek:		Just upstream of South College Road	*21
At confluence with East Branch Croton River	*433	At mouth	*9	Maps available for inspection at the New Han- over County Administration Building, 320 Chest- nut Street, Wilmington, North Carolina.	
Upstream side of New York Route 22	*462	Just upstream of State Route 1438	*29		
Upstream side of Old New York Route 22	*475	Town Creek: Within community		Wilmington (City), New Hanover County (FEMA Docket No. 6665)	
Maps available for inspection at the Town Clerk's Office, Town Hall, Patterson, New York.		Mill Creek:		Spring Branch:	
		About 1.0 mile upstream of State Route 1112	*12	At mouth	*9
Whitehall (Town), Washington County (FEMA Docket No. 6682)		At mouth	*14	About 5,750 feet upstream of mouth	*18
Lake Champlain: Entire shoreline within communi- ty	*102	Cape Fear River:		Burnt Mill Creek:	
		At confluence with Indian Creek	*8	About 350 feet downstream of Seaboard Coast Line Railroad	*9
		At Campbell Island	*10	Just downstream of Hoggard Drive	*33
		Maps available for inspection at the Brunswick County Governmental Center, Bolivia, North Carolina.			
		Caswell Beach (Town), Brunswick County (FEMA Docket No. 6676)			
		Atlantic Ocean:			
		About 0.8 mile West of Oak Island Coast Guard Station along NC 133	*11		
		At confluence of Intracoastal Waterway with Elizabeth River	*14		
		Along shoreline from eastern corporate limits to about 1.6 miles west	*17		

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Greenfield Lake, North Branch:		Maps available for inspection at the City Hall, 111 West 6th Street, Marysville, Ohio.		Oakridge (City), Lane County (FEMA Docket No. 6682)	
At mouth.....	*10			<i>Salmon Creek:</i> Center of Hill Street, approximately 1,100 feet east of its intersection with Beech Meadow Way.....	*1,189
Just upstream of East Lake Shore Drive.....	*14			<i>Middle Fork Willamette River:</i> At the intersection of Beaver Street and Garden Road.....	*1,117
About 150 feet upstream of 16th Street.....	*18			Maps available for inspection at the City Man- ager's Office, City Hall, Oakridge, Oregon.	
Greenfield Lake, North Branch Tributary:		Seville (Village) Medina County, (FEMA Docket No. 6676)			
At mouth.....	*15	<i>Chippewa Creek:</i>			
About 200 feet upstream of 16th Street.....	*24	About 1,600 feet downstream of Main Street.....	*982		
Bradley Creek:		About 0.9 mile upstream of Greenwich Road.....	*990		
About 300 feet upstream of Mallard Street.....	*13	<i>Hubbard Creek:</i>			
About 2,650 feet upstream of Mallard Street.....	*21	At mouth.....	*986		
Northeast Cape Fear River:		About 2,650 feet upstream of Liberty Street.....	*994		
From 3rd Street to confluence of Smith Creek.....	*9	<i>Unnamed Tributary:</i>			
Along Smith Creek from mouth to confluence of Spring Branch.....	*9	At mouth.....	*988		
From mouth to 3rd Street.....	*10	Just upstream of Greenwich Road.....	*1,028		
Cape Fear River:		Maps available for inspection at the Village Hall, 6 Spring Street, Seville, Ohio.		PENNSYLVANIA	
Along shoreline.....	*10			Bentleyville (Borough), Washington County (FEMA Docket No. 6682)	
Along Greenfield Lake shoreline.....	*10			<i>Pigeon Creek:</i>	
Along Barnards Creek.....	*10			Downstream corporate limits.....	*907
Atlantic Ocean: Along Hewletts Creek.....	*11	Tiffin (City) Seneca County (FEMA Docket No. 6682)		Confluence with North Branch Pigeon Creek.....	*923
Maps available for inspection at City Hall, Wil- mington, North Carolina.		<i>Sandusky River:</i>		Upstream side of Main Street (1st crossing).....	*934
		About 2,950 feet downstream of Huss Street.....	*719	Upstream side of Main Street (2nd crossing).....	*947
		Just upstream of Water Plant Dam.....	*744	Upstream corporate limits.....	*956
		Maps available for inspection at the Engineer's Office, Municipal Building, Tiffin, Ohio.		Maps available for inspection at the Municipal Building, 900 Main Street, Bentleyville, Pennsylv- ania.	
Wrightsville Beach (Town), New Hanover County (FEMA Docket No. 6665)		OREGON		Bradys Bend (Township), Armstrong County (FEMA Docket No. 6682)	
Atlantic Ocean:		Lane County: (Unincorporated Areas) (FEMA Docket No. 6682)		<i>Sugar Creek:</i>	
Along Lumina Avenue.....	*11			Confluence with Allegheny River.....	*829
About 1,250 feet southwest of the intersection of Short Street and Marina Street.....	*11	<i>Siuslaw River:</i> 250 feet north from the intersection of Duncan Island Road and Bernhardt Creek Road.....	*14	Upstream side of third upstream crossing of State Highway 68.....	*880
At intersection of Island Drive and U.S. 76.....	*12	<i>Willamette River:</i> 250 feet south from the inter- section of Compton Lane and Riverview Drive.....	*346	Upstream side of the seventh upstream cross- ing of State Highway 68.....	*948
Along Intracoastal Waterway.....	*12	<i>Coast Fork Willamette:</i> 150 feet north from the intersection of River Drive and Orchard Avenue.....	*548	Upstream side of T-338.....	*966
About 250 feet southeast of South Channel Drive and North Channel Drive.....	*12	<i>Coast Fork Willamette River Overflow:</i> 100 feet southwest from the intersection of Patricia Lane and North Delight Valley Road.....	*598	Upstream side of Kaylor Road.....	*1,112
Along the shoreline.....	*17	<i>Odey Slough:</i> 200 feet downstream from the center of Seavey Loop Road.....	*459	Approximately .34 mile upstream of the elev- enth upstream crossing of State Highway 68 (near intersection with T-324).....	*1,152
Maps available for inspection at Town Hall, Wrightsville Beach, North Carolina.		<i>Berkshire Slough:</i> 200 feet west from the inter- section of Pioneer Road and Matthews Road.....	*492	Maps available for inspection at the Bradys Bend Township Secretary's House, R.D. #1, Box 49, East Brady, Pennsylvania.	
		<i>Row River:</i> At the intersection of Snauer Lane and Oregon Pacific and Eastern Railroad.....	*662		
OHIO		<i>Silk Creek:</i> At the center of Gowdyville Road.....	*657	Conewago (Township), Dauphin County (FEMA Docket No. 6676)	
Bucyrus (City), Crawford County, (FEMA Docket No. 6682)		<i>Middle Fork Willamette River (Near Springfield):</i> 200 feet upstream of the center of Southern Pacific Railroad.....	*547	<i>Conewago Creek East:</i>	
<i>Sandusky River:</i>		<i>Middle Fork Willamette River Overflow:</i> 100 feet west from the intersection of Mahogany Lane and Springfield-Creswell Highway.....	*497	Downstream corporate limits.....	*388
About 2,700 feet upstream of Kersetter Road.....	*970	<i>Fall Creek:</i> 50 feet upstream from the center of Place Road.....	*581	Approximately 150 feet upstream of Mill Road.....	*395
About 1.0 mile upstream from Norfolk Southern Railway.....	*985	<i>Middle Fork Willamette River (Near Oakridge):</i> 50 feet downstream from the center of Willamette Highway.....	*1,073	At State Route 283.....	*417
Maps available for inspection at the Engineer's Office, 500 South Sandusky Avenue, Bucyrus, Ohio.		<i>North Fork Middle Fork Willamette River:</i> 50 feet upstream from the intersection of the center of Southern Pacific Railroad.....	*1,075	Maps available for inspection at Conewago Township Building, Conewago, Pennsylvania.	
		<i>Salmon Creek—With Levees:</i> 25 feet upstream from the center of the downstream Southern Pacific Railroad.....	*1,199		
Cuyahoga County (Unincorporated Areas), (FEMA Docket No. 6676)		<i>Salmon Creek—Without Consideration of Levees:</i> 700 feet southwest from the intersection of Salmon Creek Road and Southern Pacific Rail- road.....	*1,210	Fountain Hill (Borough), Lehigh County (FEMA Docket No. 6676)	
<i>West Branch Rocky River:</i>		<i>McKenzie River:</i>		<i>Lehigh River:</i>	
About 1,500 feet downstream of Lewis Road.....	*667	100 feet upstream from the center of Bridge Street.....	*652	Upstream corporate limits.....	*239
About 2.5 miles upstream of Lewis Road.....	*696	100 feet downstream from the center of McKenzie Highway.....	*1,361	Downstream corporate limits.....	*239
Plum Creek:		<i>McKenzie River East Channel:</i> 350 feet southwest from the intersection of McKenzie Highway and McKenzie River Drive.....	*1,192	Maps available for inspection at the Office of Ralph Hutchison, Borough Manager, Fountain Hill, Pennsylvania.	
About 1.3 miles downstream of Interstate 80.....	*759	<i>Mohawk River:</i> At the intersection of Goats and Sunderman Road.....	*489		
About 2.5 miles downstream of Sprague Road.....	*779	<i>Amazon Creek:</i> 100 feet upstream from the center of Southern Pacific Railroad.....	*384	Freeport (Borough), Armstrong County (FEMA Docket No. 6682)	
Chagrin River:		<i>Long Tom River:</i> 100 feet upstream from the center of Territorial Highway (State Highway 126).....	*382	<i>Allegheny River:</i>	
Just downstream of downstream Village of Moreland Hills corporate limits.....	*792	Maps available for inspection at the Department of Land Management, 125 E. 8th Street, Eugene, Oregon.		Downstream county boundary.....	*769
At upstream Village of Moreland Hills corporate limits.....	*798			Upstream corporate limits.....	*770
Maps available for inspection at the Regional Planning Commission, 415 The Arcade, Clevel- and, Ohio.				Shoreline of Buffalo Creek from its confluence with Allegheny River to approximately 1.1 miles upstream.....	*769
				Maps available for inspection at the Municipal Building, 414 Market Street, Freeport, Pennsylv- ania.	
Dresden (Village) Muskingum County, FEMA Docket No. 6682)					
<i>Main Ditch:</i>				Kittanning (Borough), Armstrong County (FEMA Docket No. 6682)	
About 750 feet downstream of 12th Street.....	*738			<i>Allegheny River:</i>	
About 450 feet upstream of 11th Street.....	*740			Downstream corporate limits.....	*793
Muskingum River:				Approximately 80 feet downstream of Lock and Dam No. 7.....	*795
About 2,250 feet downstream of State Route 208.....	*714			Approximately 80 feet upstream of Lock and Dam No. 7.....	*798
About 1,000 feet upstream of confluence of Wakatomika River.....	*716			Upstream corporate limits.....	*801
Maps available for inspection at the Municipal Building, Ninth and Chestnut, Dresden, Ohio.				Maps available for inspection at the Borough Building, 300 South McKean Street, Kittanning, Pennsylvania.	
Marysville (City), County (FEMA Docket No. 6665).					
<i>Mill Creek:</i>					
About 1,900 feet downstream of confluence of Infirmary Ditch.....	*971				
About 1.5 miles upstream of Maple Street.....	*988				

Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)
Meysersdale (Borough), Somerset County (FEMA Docket No. 6682)		Approximately 0.7 mile downstream of Bard Road.....	*605	At upstream corporate limits.....	*645
<i>Casselman River:</i>		At downstream side of Bard Road.....	*618	<i>East Branch Antietam Creek:</i>	
Approximately 0.6 mile downstream of Chessie System bridge.....	*1,944	At downstream side of Hot Point Road.....	*630	Approximately 800 feet downstream of Goods Dam Road.....	*577
Upstream side of Broadway Street.....	*1,948	Approximately 1,300 feet downstream of Olde Scotland Road (State Route 696).....	*657	At upstream side of Anthony Highway/State Route 997.....	*593
Approximately 840 feet upstream of Eighth Street (extended).....	*1,953	Downstream side of Olde Scotland Road (State Route 696).....	*666	Approximately 300 feet upstream of State Route 16/Buchanan Trail East.....	*622
<i>Faugherty Creek:</i>		At confluence of Gum Run.....	*669	At upstream of Eigenbrode Lane.....	*673
At confluence with Casselman River.....	*1,948	Approximately 340 feet upstream of confluence of Gum Run.....	*671	At downstream side of Mentzer Gap Road/ LR28024.....	*688
Upstream side of Beachley Street.....	*1,954	<i>Gum Run:</i>		Approximately .19 mile downstream of upstream corporate limits.....	*753
Upstream side of Walnut Street.....	*1,966	Confluence with Middle Spring Creek.....	*669	<i>Red Run:</i>	
Upstream corporate limits.....	*1,977	Downstream side of Mainsville Road (Legisla- tive Route 28018).....	*676	At confluence with East Branch Antietam Creek.....	*599
Maps available for inspection at the Meyersdale Borough Building, 151 Center Street, Meyers- dale, Pennsylvania.		Approximately 0.4 mile upstream of Mainsville Road (Legislative Route 28018).....	*695	Approximately 200 feet upstream of Baer Road/T-370.....	*608
Monongahela (City), Washington County (FEMA Docket No. 6682)		Upstream side of Access Road approximately 0.6 mile upstream of Mainsville Road (Legis- lative Route 28018).....	*704	Approximately 500 feet upstream of Amsterdam Road.....	*665
<i>Monongahela River:</i>		Approximately 125 feet downstream of Inter- state 81.....	*711	Approximately 75 feet downstream of Skiway Drive.....	*776
Downstream corporate limits.....	*754	<i>Muddy Run:</i>		<i>Falls Creek:</i>	
Upstream corporate limits.....	*755	Confluence with Conodoguinet Creek.....	*575	At confluence with Red Run.....	*652
Entire shoreline of Pigeon Creek within commu- nity.....	*755	Upstream side of Orrstown Road (State Route 533).....	*580	At downstream side of Midvale Road/LR28024.....	*667
Maps available for inspection at the City Hall, 449 West Main Street, Monongahela, Pennsyl- vania.		At confluence of Rowe Run.....	*586	At downstream side of Penmar Road/LR28026.....	*765
New Berlin (Borough), Union County (FEMA Docket No. 6676)		Approximately 100 feet upstream of Rowe Run Road (State Route 433).....	*593	Maps available for inspection at the Municipal Building, Waynesboro, Pennsylvania.	
<i>Penns Creek:</i>		Approximately 500 feet upstream of Muddy Run Road (Township Route 604).....	*602	Washington (Township), Snyder County (FEMA Docket No. 6676)	
At upstream corporate limits.....	*495	<i>Rowe Run:</i>		<i>Middle Creek:</i>	
At downstream corporate limits.....	*493	Confluence with Muddy Run.....	*586	Downstream corporate limits.....	*441
Maps available for inspection at the Community Center, 318 Vine Street, New Berlin, Pennsylva- nia.		Approximately 0.9 mile upstream of confluence with Muddy Run.....	*589	Upstream side of State Route 35.....	*446
Roaring Creek (Township) Columbia County (FEMA Docket No. 6676)		Approximately 700 feet downstream of Pinola Road (Legislative Route 28015).....	*598	Upstream side of Creek Road.....	*456
<i>Roaring Creek:</i>		Approximately 1,500 feet upstream of Pinola Road (Legislative Route 28015).....	*608	Upstream corporate limits.....	*458
At Legislative Route 19009.....	*874	Approximately 0.5 mile downstream of upstream corporate limits.....	*618	Maps are available for inspection at R.D. 3, Middleburg, Pennsylvania.	
Approximately 0.5 mile downstream of Legisla- tive Route 190095.....	*896	Upstream corporate limits.....	*625	Waynesburg (Borough), Greene County (FEMA Docket No. 6682)	
Approximately 80 feet downstream of Legisla- tive Route 190095.....	*921	Maps available for inspection at the Municipal Building, Shippensburg, Pennsylvania.		<i>South Fork Tenmile Creek:</i>	
Maps available for inspection at the Office of Township Secretary, Chatawissa, Pennsylvania.		South Greensburg (Borough), Westmoreland County (FEMA Docket No. 6682)		Downstream corporate limits.....	*934
Southampton (Township), Franklin County, (FEMA Docket No. 6676)		<i>Jacks Run:</i>		Confluence of Purman Run.....	*936
<i>Conodoguinet Creek:</i>		Downstream corporate limits.....	*976	Upstream side of Morgan Street bridge.....	*937
Downstream corporate limits.....	*545	Approximately 100 feet downstream of Key- stone Avenue bridge.....	*977	Upstream corporate limits.....	*940
Approximately 0.7 mile downstream of McClays Mill Road (Legislative Route 28010).....	*548	Upstream side of CONRAIL bridge.....	*979	<i>Purman Run:</i>	
At upstream side of McClays Mill Road (Legisla- tive Route 28010).....	*555	Approximately 300 feet downstream of Huff Avenue bridge.....	*982	Downstream side of Green Street bridge.....	*936
Approximately 1.3 miles downstream of Roxbury Road (Legislative Route 28009).....	*559	Approximately 50 feet upstream of Huff Avenue bridge.....	*983	Upstream side of High Street bridge.....	*938
Approximately 100 feet upstream of Roxbury Road (Legislative Route 28009).....	*568	Upstream corporate limits.....	*986	Approximately 100 feet downstream of East Street bridge.....	*940
Approximately 1,200 feet upstream of conflu- ence of Muddy Run.....	*577	<i>State Creek:</i>		Approximately 50 feet upstream of East Street bridge.....	*942
Approximately 0.6 mile downstream of Tan Yard Hill Road (State Route 433).....	*585	Downstream corporate limits.....	*976	Upstream corporate limits.....	*965
Approximately 400 feet upstream of Tan Yard Hill Road (State Route 433).....	*591	Downstream side of State Route 819.....	*976	Maps available for inspection at the Waynes- burg Borough Building, 90 East High Street, Waynesburg, Pennsylvania.	
Approximately 0.7 mile downstream of upstream corporate limits.....	*597	Upstream corporate limits.....	*980	Zellenople (Borough), Butler County (FEMA Docket No. 6682)	
Upstream corporate limits.....	*603	Maps available for inspection at the Municipal Building, 1515 Poplar Street, South Greensburg, Pennsylvania.		<i>Connoquenessing Creek:</i>	
<i>Middle Spring Creek:</i>		Stonycreek, Township, Cambria County (FEMA Docket No. 6401)		Downstream corporate limits.....	*899
At confluence with Conodoguinet Creek.....	*545	<i>Stony Creek:</i>		Upstream side of Beaver Road over Muntz Run.....	*899
Approximately 0.9 mile upstream of confluence with Conodoguinet Creek.....	*551	Chessie System bridge.....	*1,198	Upstream side of Market Street over Glade Run.....	*900
Approximately 1.9 miles upstream of confluence with Conodoguinet Creek.....	*561	Upstream of Boone Street.....	*1,209	Upstream side of State Route 288/588.....	*902
Approximately 0.7 mile downstream of McClays Mill Road (Legislative Route 28010).....	*566	Upstream corporate limits and Krings Highway.....	*1,241	Upstream corporate limits.....	*906
Upstream side of McClays Mill Road (Legisla- tive Route 28010).....	*575	Maps available for inspection at the Township Building, 1610 Bedford Street, Stonycreek, Pennsylvania.		Maps available for inspection at the Municipal Building, 111 West New Castle Street, Zellenop- le, Pennsylvania.	
Upstream side of dam just upstream of Stone- wall Road (Township Route 626).....	*586	Washington (Township), Franklin County (FEMA Docket No. 6676)		RHODE ISLAND	
Approximately 1.5 miles downstream of Bard Road.....	*592	<i>West Branch Antietam Creek:</i>		Charlestown (Town), Washington County (FEMA Docket No. 6658)	
		Approximately .35 mile downstream of Marsh Road.....	*589	<i>Block Island Sound:</i>	
		Upstream side of State Route 16/Buchanan Trail East.....	*608	Entire shoreline within community.....	*18
		Upstream side of Western Maryland Railroad.....	*623	Intersection of Buddington and Overlook Avenue.....	*12
		Upstream side of Wayne Highway/State Route 316.....	*632	<i>Pawcatuck River:</i>	
				Downstream corporate limits.....	*39
				Upstream side of State Route 91.....	*52
				Downstream side of Shannock Road (upstream crossing).....	*74
				Approximately 1,500 feet upstream of Biscuit City Road.....	*90

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Building Inspector's Office, South County Trail, Route 2, Charlestown, Rhode Island.					
Providence (City), Providence County (FEMA Docket No. 6676)					
Providence River:					
Upstream side of Fox Point Hurricane Barrier	*5	Hardig Brook: Sheet Flow: On top of Colt Avenue culvert	#1	Dry Comal Creek:	
At confluence of Moshassuck River	*6	Hawkinson Brook:		At confluence of Old Channel Comal River	*611
Shoreline 1,000 feet west of southern most tip of Fields Point	*21	Confluence with South Branch Pawtuxet River	*147	Downstream side of Missouri-Pacific Railroad	*622
Shoreline at Sassafraz Point	*17	Crest of Dam Number 195	*157	Downstream side of North Live Oak Avenue	*634
Intersection of Allens Avenue and Henderson Street	*16	Crest of dam located approximately 700 feet upstream of turner Drive	*197	Upstream side of State Loop 337	*641
Woonasquatucket River:					
Approximately 500 feet downstream of Francis Street	*6	Approximately 550 feet downstream of Green Bush Road	*199	Downstream side of Missouri-Kansas-Texas Railroad	*650
Upstream side of Acorn Street	*9	Tributary to Maskerchugg River:		At upstream corporate limits	*663
Downstream side of Paragon Dam	*24	Upstream side of Quaker Lane culvert	*227	Old Channel Comal River:	
Upstream side Glenbridge Avenue	*49	Upstream face of westbound Interstate 95 culvert	*244	At confluence with Comal River	*611
At upstream corporate limits	*69	Baker Street Brook:		At confluence of New Channel Comal River	*622
Moshassuck River:					
At confluence with Woonasquatucket River	*6	Confluence with South Branch Pawtuxet River	*130	At Klingemann Street	*638
Upstream side of Randall Street	*27	Downstream face of CONRAIL culvert	*136	Blieders Creek:	
Upstream side of Interstate Route 95 entrance ramp	*30	Upstream face of CONRAIL culvert	*148	Approximately 840 feet downstream of Lakeview Boulevard	*639
Upstream side of Cemetery Street	*33	Maps available for inspection at the Building Inspector's Office, Town Hall, West Warwick, Rhode Island (c/o John J. O'Hare, Town Planner).			
At upstream corporate limits	*34				
West River:					
Downstream side of Interstate Route 95	*30	TEXAS			
Upstream side of Charles Street	*33	Corinth (Town), Denton County (FEMA Docket No. 6682)			
Downstream side of Hawkins Street	*35	Bryant Branch:			
Approximately 100 feet downstream of Branch Avenue	*41	At downstream corporate limits	*537	At confluence with Guadalupe River	*591
Downstream side of Veazie Street	*51	Upstream face FM 2181	*547	Approximately .75 mile upstream of confluence with Guadalupe River	*603
Downstream side of Whipples Pond Dam	*60	Upstream face Lake Sharon Dam Road	*573	Downstream side of Seguin Avenue	*614
At upstream corporate limits	*78	At upstream corporate limits	*574	Upstream side of McQueeney Road	*625
Upper Canada Pond Brook:					
At Confluence with West River	*38	Griffiths Creek:		Approximately .43 mile upstream of McQueeney Road	*630
Upstream side of Upper Canada Pond Dam	*58	At confluence with Veal Springs Branch	*537	Downstream side of Mesquite Avenue	*652
Pocasset River:					
At upstream corporate limits	*75	Upstream face FM 2181	*557	Approximately 50 feet upstream of Farm Road 1044	*679
At downstream corporate limit	*75	Approximately 1,440 feet upstream of FM 2181	*559	South Guadalupe Tributary:	
Seekonk River:					
Shoreline at Goose Point	*20	Lynchburg Creek:		At confluence with North Guadalupe Tributary	*596
Shoreline at east end of George H. Henderson Memorial Bridge	*19	Approximately 400 feet downstream of downstream corporate limits	*539	Downstream side of Seguin Avenue	*614
Intersection of Gano Street and Wickenden Street	*16	Approximately .54 mile downstream of Missouri-Kansas Texas Railroad	*553	Upstream side of McQueeney Road	*626
Ponding Area: 100 feet northeast of intersection of Derry Street and Oregon Street					
	*25	Upstream face Missouri-Kansas Texas Railroad	*566	Approximately .65 mile upstream of McQueeney Road	*640
Sheet flow: Along Amtrak from 900 feet north of Charles Street to 50 feet south of Smith Street					
	#2	Upstream face Interstate Route 35	*574	At upstream corporate limits	*659
Maps available for inspection at the Department of Inspection and Standards, 60 Eddy Street, Providence, Rhode Island.					
		Approximately 100 feet upstream of South Corinth Street	*579	Maps available for inspection at the New Braunfels City Hall, New Braunfels, Texas.	
West Warwick (Town), Kent County (FEMA Docket No. 6676)					
Pasadena (City), Harris County (FEMA Docket No. 6645)					
Pawtuxet River:					
At downstream corporate limits	*38	Stream PEC-1: Entire length affecting community	*594	Galveston Bay (F200-00-00):	
Crest of Natick Dam	*55	Swisher Creek:		Shoreline at El Jardin Drive (extended)	*18
Confluence with North and South Branch Pawtuxet River	*56	Approximately 100 feet downstream of corporate limits	*556	At confluence of Barge Canal with Boggy Bayou	*12
North Branch Pawtuxet River:					
Confluence with Pawtuxet River	*56	Approximately 200 feet upstream of Missouri-Kansas Texas Railroad	*566	Clear Creek (Clear Lake) (A100-00-00):	
Upstream side of Main Street bridge	*63	At Interstate Route 35 & U.S. Route 77	*575	Shoreline at Denton Drive (extended)	*15
At upstream corporate limits	*102	Approximately 150 feet upstream of South Garrison Drive	*578	Approximately 100 feet northeast of NASA Road at mouth of Forrest Lake	*12
South Branch Pawtuxet River:					
Confluence with Pawtuxet River	*56	Veal Springs Branch:			
Crest of Dam Number 147	*84	At downstream corporate limits	*537	Taylor's Bayou (A104-00-00):	
Upstream side of Dam Number 149	*130	Approximately 660 feet downstream of FM 2181	*544	Downstream corporate limits	*11
Upstream corporate limits	*147	Approximately 100 feet upstream of FM 2181	*563	Unstream corporate limits	*11
Lippitt Brook:					
Approximately 35 feet downstream of the downstream face of the Main Street culvert	*65	Lewisville Lake: Entire shoreline			
Upstream side of Packard Street bridge	*87	Maps available for inspection at the City Hall, 2003 South Corinth, Route 3, Denton, Texas.			
Downstream face of Bettelz Street culvert	*109	Garden Ridge (City), Comal County (FEMA Docket No. 6676)			
Lippitt Brook: Sheet Flow:					
Along Main Street	#1	Garden Ridge Tributary (Apple Run):			
Between Main Street and Dam Number 155	#1	Approximately 250 feet downstream of corporate limits	*834	At Confluence of Horsepen Bayou (B104-00-00)	*11
Hardig Brook:					
Upstream face of Quaker Lane culvert	*122	At Sundew Lane	*861	Approximately 0.47 mile upstream of confluence of Spring Gully (B109-00-00)	*15
Upstream face of Glen Drive culvert	*123	Approximately .4 mile upstream of Sundew Lane	*864	Upstream side of Genoa-Red Bluff Road	*20
Downstream side of Revere avenue bridge	*163	Maps available for inspection at the City Hall, Garden Ridge, Texas.			
		New Braunfels (City), Comal County (FEMA Docket No. 6625)			
		Alligator Creek:			
		Approximately 0.44 mile upstream of corporate limits (extended)	*627	Approximately 800 feet upstream of Fairmont Parkway	*25
		Approximately .82 mile upstream of corporate limits (extended)	*632	Approximately 350 feet upstream of Dupont Street	*39
		Approximately 1.37 miles upstream of corporate limits (extended)	*638	Horsepen Bayou (B104-00-00):	
		Comal River:			
		At confluence with Guadalupe River	*604	At confluence with Armand Bayou (B100-00-00)	*11
		At confluence of Old Channel Comal River	*611	Approximately 1,500 feet upstream of Escuela Lane	*16
				Big Island Slough (B106-00-00):	
				At confluence with Armand Bayou (B100-00-00)	*12
				At upstream corporate limits	*17
				Spring Gully (B109-00-00):	
				At confluence with Armand Bayou (B100-00-00)	*15

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Upstream side of northbound Red Bluff Road Tributary 9.40 to Armand Bayou (B110-00-00): At confluence with Armand Bayou (B100-00-00)	*15	Upstream side of Paper Mill Bridge Upstream side of Robinson Covered Bridge Upstream side of Hicks Avenue Foot Bridge Confluence with Roaring Branch	*562 *567 *610 *618	At Howald Street At upstream corporate limits Maps available for inspection at the Craigsville Town Hall, Craigsville, Virginia.	*1,560 *1,582
Upstream corporate limits Willow Springs Bayou (B112-00-00): At confluence with Armand Bayou (B100-00-00)	*19 *19	South Stream: Confluence with Roaring Branch Approximately 65 feet upstream of Hunt Street	*618 *625	WASHINGTON	
Upstream corporate limits Tributary 10.46 to Armand Bayou (B113-00-00): At confluence with Armand Bayou (B100-00-00)	*21 *21	Upstream side of Leonard Street Upstream side of Benmont Avenue Upstream side of U.S. Route 7 Upstream side of Park Street Upstream side of State Route 9 Approximately 0.8 mile upstream of State Route 9	*642 *661 *680 *689 *734 *752	Eatonville (Town), Pierce County (FEMA Docket No. 6682) Mashel River: 25 feet downstream from center of Eastonville-LaGrande Highway	*772
Upstream side of Jana Lane Approximately 0.51 mile upstream of Jana Lane Tributary 12.18 to Armand Bayou (B115-00-00): At confluence with Armand Bayou (B100-00-00)	*22 *27 *29	Roaring Branch: Confluence with Walloomsac River Upstream side of Park Street Upstream side of Brooklyn Drive Downstream side of State Route 9 Approximately 0.5 mile upstream of State Route 9	*618 *665 *750 *914 *970	Maps available for review at Town Hall, Eatonville, Washington.	
Downstream side of Beltway 8 (southbound) Buffalo Bayou (W100-00-00): At confluence of Tributary 6.77 to Buffalo Bayou Glenmore Ditch (G108-00-00): At downstream corporate limits	*26 *30 *12	Furnace Brook: Confluence with Walloomsac River Downstream side of Morse Borrow Pit Bridge Upstream side of Orchard Road Upstream side of Park Street Approximately 1,400 feet upstream of Park Street	*575 *578 *613 *650 *644	Ruston (Town), Pierce County (FEMA Docket No. 6682) Puget Sound (Commencement Bay): Approximately 1,050 feet east of the intersection of Bennett Street and North 54th Street, extended to shoreline of Commencement Bay	*9
Upstream side of Port Terminal Railroad Approximately 500 feet upstream of State Route 225 Tributary 6.77 to Buffalo Bayou: At downstream corporate limits Approximately 780 feet upstream of down- stream corporate limits	*23 *29 *12	Maps available for inspection at the Zoning Administration Office, Bennington, Vermont.		Maps available for inspection at Ruston Town Hall, Tacoma, Washington.	
Tributary 8.17 to Buffalo Bayou: At downstream corporate limits Approximately 50 feet downstream of Port Ter- minal Railroad crossing Vince Bayou (V100-00-00): At downstream corporate limits	*12 *12 *12	St. Johnsbury (Town), Caledonia County (FEMA Docket No. 6682) Passumpsic River: Downstream corporate limits Upstream side of Interstate 91 Upstream side of Portland Street Upstream side of Arnold Falls Dam Upstream side of St. Johnsbury Center bridge Upstream side of U.S. Route 5 Upstream of Pierce Mills Dam Upstream corporate limits	*575 *578 *613 *650 *644 *537 *548 *560 *579 *591 *595 *613 *620	Woodway (Town), Snohomish County (FEMA Docket No. 6682) Puget Sound: At Deer Creek Confluence Maps available for inspection at Woodway Town Hall, Edmonds, Washington.	*10
Approximately 300 feet downstream of West Harris Avenue At West Southmore Avenue Upstream side of Queens Road Approximately 1,500 feet upstream of Spencer Highway Approximately 100 feet upstream of Fairmont Parkway Little Vince Bayou (V101-00-00): At downstream corporate limits	*12 *14 *18 *24 *29 *33 *35	Moose River: Confluence with Passumpsic River Upstream side of Portland Street Upstream of U.S. Route 2 (downstream cross- ing) Upstream side of Locke Bridge Approximately 180 feet upstream, of East St. Johnsbury bridge Upstream corporate limits	*561 *604 *726 *750 *792 *800	Issued: January 22, 1986. Jeffrey S. Bragg, Administrator, Federal Insurance Administration. [FR Doc. 86-2016 Filed 1-30-86; 8:45 am] BILLING CODE 6718-03-M	
At Jackson Avenue At Jenkins Road Approximately 250 feet upstream of Blake Avenue Downstream side of Wichita Street Maps available for inspection at 1211 East Southmore, Pasadena, Texas.	*25 *28 *30 *33	Maps available for inspection at the Town Man- ager's Office, Municipal Building, St Johnsbury, Vermont.		DEPARTMENT OF TRANSPORTATION	
Westworth Village (City), Tarrant County (FEMA Docket No. 6682)		VIRGINIA		Federal Railroad Administration	
West Fork Trinity River: Approximately 150 feet downstream of down- stream corporate limits Upstream side of channel dam located approxi- mately 110 feet upstream of River Oaks Boulevard Approximately 40 feet upstream of upstream corporate limits Farmer's Branch: At confluence with West Fork Trinity River At Texas and Pacific Railroad At upstream corporate limits near Loop 341	*552 *556 *558	Craigsville (Town), Augusta County (FEMA Docket No. 6640) Grassy Run: At downstream corporate limits At confluence of Sulphur Springs Hollow At confluence of Staples Hollow Approximately 175 feet upstream of upstream corporate limits Taylor Hollow: At confluence with Grassy Run Upstream side of Railroad Avenue Approximately 500 feet upstream of corporate limits Staples Hollow: At confluence with Grassy Run Approximately 30 feet upstream of Madison Street At upstream corporate limits Sulphur Springs Hollow: At confluence with Grassy Run At confluence of Staples Hollow Approximately 40 feet upstream corporate limits Staples Hollow: At confluence with Sulphur Springs Hollow	*553 *581 *584 *686 *553 *581 *584 *686 *512 *530 *556 *547 *585 *627 *519 *538 *568 *538	49 CFR Parts 212, 217, 219, and 225 [FRA Docket No. RSOR-6, Notice No. 14] Second Notice of Revised Effective Dates; Control of Alcohol and Drug Use in Railroad Operations AGENCY: Federal Railroad Administration (FRA), DOT. ACTION: Notice of revised effective dates and conforming amendments. SUMMARY: This notice sets forth new effective dates for the final rule on Control of Alcohol and Drug Use in Railroad Operations, including miscellaneous related amendments to FRA safety regulations. The final rule had been suspended in compliance with a stay pending appeal issued by the U.S. Court of Appeals for the Ninth Circuit. The Supreme Court has vacated the stay, which permits FRA to put the rule into effect while the pending litigation continues. DATES: Part 219 is effective on February 10, 1986. However, compliance by a	
Bennington (Town) Bennington County (FEMA Docket No. 6649)					
Walloomsac River: At downstream corporate limits Downstream side of Henery Covered Bridge Downstream side of Murphy Road	*517 *540 *553				

railroad with Subpart C is not mandatory until March 10, 1986; and compliance by a railroad with Subpart F is not mandatory until May 1, 1986. The final rule amendments to Parts 212, 217, and 225 are effective on February 10, 1986.

FOR FURTHER INFORMATION CONTACT: Walter C. Rocky, Jr., Executive Assistant to the Associate Administrator for Safety, FRA (Telephone: 202-426-0895), or Grady C. Cothen, Jr., Special Assistant to the Chief Counsel (Telephone: 202-426-9416).

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1985, FRA issued a final rule on Control of Alcohol and Drug Use in Railroad Operations (50 FR 31508; Aug. 2, 1985), which included a new Part 219 in Title 49, Code of Federal Regulations, and certain amendments to Parts 212, 217, 218, and 225 of that title. FRA published technical corrections and amendments on September 24, 1985 (50 FR 38660) and October 31, 1985 (50 FR 45406).

With certain exceptions, the final rule became effective on November 1, 1985. On that date the U.S. District Court of the Northern District of California (Judge Legge) issued a temporary restraining order (TRO) that prohibited FRA from continuing in effect or further implementing any portion of the final rule. The TRO issued on application of the plaintiffs in *Railway Labor Executives' Association v. Dole*, Civil Action No. 85-7958. In compliance with the TRO, FRA published a notice suspending the operation of the final rule, pending further notice, on November 5, 1985 (50 FR 45917).

On November 26, 1985, the court heard arguments on cross motions for summary judgment filed by the plaintiff unions and the Government defendants. At the conclusion of the arguments, Judge Legge ruled orally that the final rule was valid in all respects and that the Government's motion for summary judgment should be granted. On December 9, 1985, the court entered a final order and judgment in the Government's favor and dissolved the TRO, thus allowing FRA to make the final rule effective at its discretion. Judge Legge also denied the plaintiff unions' motion to stay his decision (and enjoin the regulations) pending appeal.

On December 12, 1985, FRA published Notice No. 12 (50 FR 50868), containing a new schedule of effective dates for this rule. Under that notice, Part 219 was to have become effective on January 6, 1986. Post-Accident Toxicological

Testing under Subpart C would have been authorized as of January 6, but would not have been mandatory until February 1, 1986. Pre-Employment Drug Screens would not have been mandatory until April 1, 1986. Conforming amendments to related FRA regulations in Parts 212, 217, and 225 were to have become effective, and did become effective, on January 1, 1986. An editorial amendment to the title of Part 218 was effective on December 12, 1985, the date of publication of Notice No. 12 (and is not affected by this notice).

On December 16, 1985, plaintiffs filed a notice of appeal with the Ninth Circuit. *Railway Labor Executives' Association v. Dole*, No. 85-2891. On that same date plaintiffs filed an Emergency Motion For Order Restoring or Granting Injunction Pending Appeal, asking the court to enjoin implementation of the rule while the appeal is being briefed and decided. The Government defendants filed their opposition to that motion on December 19. The court issued an order granting the motion on January 3, 1986. In response to the order, FRA published Notice No. 13 on January 8, 1986. That notice again suspended the final rule, retroactive to January 3, pending further notice (51 FR 756).

On January 15, 1986, the Solicitor General filed an application with the Supreme Court to vacate the Ninth Circuit stay order, which would permit the rule to go into effect during the period of appellate review. Under the Supreme Court rules, this application was presented to Justice William H. Rehnquist, as Circuit Justice for the Ninth Circuit, for action. On January 22, Justice Rehnquist referred the Government's application to vacate the Ninth Circuit "stay pending appeal" to the full Supreme Court. On January 27, 1986, the Court issued an order granting the Government's motion to vacate the stay, an action which permits FRA to put the final rule into effect while judicial review proceeds.

Rule Made Effective

FRA has determined that the several regulations contained in the final rule should be promptly implemented in order to make maximum contribution to the safety of persons and property. Railroads and their employees have participated in a necessarily lengthy rulemaking process and a series of regional seminars conducted by FRA in September and October of 1985. All parties benefited from the preparation made possible during the interval between issuance of the rule on August 2, 1985, and the original effective date of November 1, 1985. The interval between the district court's dissolution of the

TRO (on December 9, 1985) and the Ninth Circuit stay order of January 3, 1986, provided additional opportunity to prepare for compliance. Accordingly, those provisions most recently scheduled to go into effect on January 1, 1986, or January 6, 1986, are made effective on February 10, 1986. FRA would make these rules effective forthwith were it not for the need to provide an appropriate period for the railroads and the labor organizations to disseminate appropriate information concerning the new effective date throughout the national rail system.

By the same token, FRA, is aware that the planning time so essential for compliance with the requirements for Post-Accident Toxicological Testing and Pre-Employment Drug Screens has now twice been interrupted by factors beyond the control of FRA and the railroads. The safety goals of these provisions cannot be realized unless these measures are undertaken with care and with appropriate consideration for the rights of employees and applicants. This will require, among other steps, a renewed and sustained effort by the railroads to finalize arrangements with health care facilities that will collect body fluid samples. Accordingly, the requirement that railroads conduct Post-Accident Toxicological Testing will be mandatory as to specified accidents/incidents occurring on and after March 10, 1986; and the requirement that railroads conduct Pre-Employment Drug Screens will be mandatory as to hiring conducted on and after May 1, 1986. Again, railroads that are prepared to implement these measures prior to those dates are authorized to do so on and after February 10, 1986.

The following table summarizes the new effective date schedule.

Part 219—Control of Alcohol and Drug Use

Subparts A and B (General, Prohibition),	February 10, 1986
Subpart C (Post-Accident Tox. Testing))	(authorized), February 10, 1986
	(mandatory), March 10, 1986
Subpart D (Authorization to Test for Cause),	February 10, 1986
Subpart E (Identification of Troubled Employees),	February 10, 1986
Subpart F (Pre-Employment Drug Screens)	(authorized), February 10, 1986
	(mandatory), May 1, 1986

Part 212—State Safety Participation Regulations

(Amendments to State Participation Regulations), February 10, 1986

Part 217—Railroad Operating Rules

(Amendments to § 217.13 and Appendix A, regarding annual reports of operational tests and inspections).
February 10, 1986

Part 225—Railroad Accident/Incidents: Reports, Classification, and Investigations

(Amendment to § 225.17 re: alcohol/drug involvement in train accidents).
February 10, 1986

Regulatory Impact

The changes in regulatory language made by this notice deal exclusively with effective dates and therefore are non-major under Executive Order 12291. Although the final rule in this proceeding was deemed to be significant under DOT policies and procedures (44 FR 11034), the amendments related to effective dates are not deemed to be significant and will have no economic impact.

FRA determines that there is good cause for making certain portions of the final rule effective less than 30 days after publication of this notice in the *Federal Register*, since the regulations were initially published more than 30 days prior to such dates and since the regulated industry has already had

adequate opportunity to prepare for implementation of those provisions.

The effective date amendments will not increase the economic burden of the existing regulation for any person. Accordingly, it is certified that these amendments will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, these amendments do not contain directly or indirectly provisions concerning the collection of information that are subject to the Paper Work Reduction Act of 1980 (5 U.S.C. 3501 *et seq.*).

List of Subjects in 49 CFR Part 219

Railroad safety, Control of alcohol and drug use.

Issued in Washington, DC, on January 29, 1986.

John H. Riley,

Federal Railroad Administrator.

Certain of the effective date provisions in the new Part 219 were incorporated in the rule text, which was previously amended (50 FR 50888, 50889; Dec. 12, 1985). Therefore, in consideration of the foregoing, Part 219, title 49 Code of Federal Regulations, is further amended as follows:

PART 219—[AMENDED]

1. The authority for Part 219 continues to read as follows:

Authority: Secs. 202 and 209, Pub. L. No. 91-458, 84 Stat. 971 and 975, as amended (45 U.S.C. 431, 438) and 49 CFR 1.49. Subpart C also issued under sec. 208, Pub. L. No. 91-458, 84 Stat. 974, as amended (48 U.S.C. 437).

2. The suspension appearing in the *Federal Register* of January 8, 1986 [51 FR 756] on Part 219 and the Amendments to Parts 212, 217, and 225 is removed.

§ 219.11 [Amended]

3. Section 219.11 is amended by removing "January 6, 1986" from paragraphs (a) and (f) and by inserting in lieu thereof "February 10, 1986".

§ 219.201 [Amended]

4. Section 219.201 is amended by removing "February 1, 1986" in paragraph (a) and by inserting in lieu thereof "March 10, 1986".

§ 219.501 [Amended]

5. Section 219.501 is amended by removing "April 1, 1986" in paragraph (a) and by inserting in lieu thereof "May 1, 1986".

[FR Doc. 86-2248 Filed 1-29-86; 12:14 pm]

BILLING CODE 4910-06-M

Proposed Rules

Federal Register

Vol. 51, No. 21

Friday, January 31, 1986

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y; Docket No. R-0567]

Bank Holding Companies and Change in Bank Control; Capital Maintenance; Supplemental Adjusted Capital Measure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: In April 1985, the Board announced revised Guidelines for minimum and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System. (50 Fed. Reg. 16057 (1985)) These revised Guidelines, contained in Appendix A to the Board's Regulation Y, 12 CFR Part 225, were designed to establish, in conjunction with other federal bank regulatory agencies, uniform capital standards for all federally regulated banking organizations regardless of size. These uniform capital standards were based on ratios of primary and total capital to total assets.

The Board believes that there is a need to modify its capital policies to be more explicitly and systematically sensitive to the risk exposure of individual banking organizations. Consequently, the Board is proposing to amend its current Guidelines by adding the following supplemental adjusted capital measure that the Board would consider in tandem with existing minimum primary and total capital-to-total assets ratios in analyzing the capital levels of bank holding companies and state chartered banks that are members of the Federal Reserve System.

DATE: Comments must be received by April 25, 1986.

ADDRESS: All comments, which should refer to Docket No. R-0567, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution

Avenue, NW., Washington, DC 20551, or should be delivered to the Office of the Secretary, Room 2200, Eccles Building, 20th and Constitution Avenue, NW., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room 1122, Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT:

Richard Spillenkothen, Deputy Associate Director (202/452-2594), Anthony G. Cornyn, Assistant Director (202/452-3354), or Catherine Piché, Financial Analyst (202/728-5871), Division of Banking Supervision and Regulation or James E. Scott, Senior Attorney, Legal Division (202/452-3513) of the Board's staff; or Andrew Spindler, Vice President, Federal Reserve Bank of New York (212/791-5846).

SUPPLEMENTARY INFORMATION:

1. Background

The Need for a Supplemental Adjusted Capital Measure

In announcing its revised Capital Adequacy Guidelines in April 1985, 50 FR 16057, the Board expressed its continuing concern that the emphasis in the Guidelines on ratios based on the total amount of assets should not be interpreted to exclude considerations of risk. The Board proposed to deal with the issue of risk on a case-by-case basis, stating: (1) That it would assess the overall capital position of a banking organization by taking account not only of the volume of the organization's risk assets but also of its off-balance-sheet risks (although such risks were not explicitly included in the capital ratios); (2) that the Guideline ratios were minimums and banking organizations with high levels of on- or off-balance-sheet risk would be expected to operate above the minimum ratios, and (3) that the banking organizations would be expected to avoid the practice of attempting to meet the minimum ratios by decreasing the level of liquid assets relative to total assets. The Board also indicated that it would continue to review the need for more explicit procedures for factoring on- and off-balance-sheet risks into the assessment of capital adequacy.

In response to comments received in connection with the 1985 revisions to the Capital Adequacy Guidelines, the Board acknowledged that, in addition to an

assessment of minimum and adequate capital levels based solely upon the total quantity of assets, there would be significant analytical value to a systematic evaluation of appropriate capital levels based upon consideration of the degree of risk associated with such assets.

Several developments over the last few years suggest the need to modify the Board's capital policies to make them more sensitive to certain risk exposures of individual banking organizations. First, there has been a substantial growth in off-balance-sheet risks—a phenomenon that does not appear to have been significantly tempered by the subjective factoring of these risks into overall assessments of capital adequacy. One indication of this trend has been the growth in standby letters of credit issued by multinational banks, which have increased, on average, from 5.8 percent of the aggregate assets of those banking organizations at the end of 1981 to 11.4 percent of assets at midyear 1985. Among multinational bank holding companies, this one category of off-balance-sheet risk ranges from less than five percent to well over 15 percent of total assets. In absolute terms, the volume of standby letters of credit for the multinational institutions has more than doubled from \$49 billion in 1981 to \$105 billion at midyear 1985.

Significant growth has also occurred in legally binding loan commitments, including those issued in connection with commercial paper programs and Euromarket note issuance facilities. The advent of other financial innovations, such as interest rate swaps, has also had the result of creating significant off-balance-sheet exposure. Taken together, off-balance-sheet items represent a very substantial exposure that is not now factored explicitly into the Federal Reserve's minimum capital ratios.

Second, there is some evidence that the holdings of low-risk, liquid assets in relation to total assets, particularly by the larger organizations, have declined over recent years. This suggests that, while capital to total assets ratios may have improved over time, capital in relation to risk exposure may not have improved commensurately. For the multinational banks, liquid assets (defined as bank certificates of deposit, Fed funds sold and securities maturing within one year) have declined as a percent of total assets from 15.6 percent

at the end of 1981 to 12.8 percent at June 30, 1985. Beyond this, examiners have generally observed decreases in liquid assets at banks regarded as more aggressive with respect to capital management and growth, and it has been argued that existing capital policies provide incentives to deemphasize low-risk, low-yield business.

While there may be a number of reasons for these balance sheet adjustments, the Board is concerned that they may be, in part, a response to the imposition of capital requirements that do not distinguish explicitly among various risk categories of assets and that do not make explicit allowance for the lessened threat to capital inherent in low-risk activities. Thus, some banking organizations appear to be reducing their holdings of low-risk assets and deemphasizing their conduct of low-risk activities in an effort to meet more stringent capital requirements. Although these adjustments may improve or otherwise maintain capital ratios at what appear to be acceptable levels, they do not, especially in conjunction with the growth in off-balance-sheet risks, strengthen an organization's risk profile. Indeed, such adjustments could, under certain circumstances, undermine an organization's financial condition.

Third, increased international competition points toward the need for a greater degree of convergence in the policies of various countries for supervising the capital adequacy of multinational banking organizations. In this regard, many European countries have developed risk-based capital measures, and a similar supervisory approach is evolving in Japan.

Finally, the growth and change in the nature of risks to which banking organizations have become exposed suggest the need to provide more explicit guidance to bankers and examiners for assessing capital needs in relation to risk.

The purpose of the Proposed Supplemental Adjusted Capital Measure

The Board believes that adoption of a supplemental adjusted capital measure based upon an assessment of distinct but necessarily broad risk categories could provide a valuable additional analytical tool in assessing the financial strength and stability of individual organizations and the banking system as a whole. Even such a limited risk-adjusted measure of capital adequacy would provide the Board with a supplemental means of assessing whether the capital level of individual banks and bank holding companies is fully adequate to serve the key functions

of capital, namely to provide a buffer to absorb losses in times of poor performance, to promote the safety of depositors' funds, to help maintain public confidence in banking organizations, and to support the reasonable growth of such organizations. To achieve these purposes, it is essential that an organization's capital base bear a reasonable relationship to the risk profile of that organization.

In addition to providing another tool for assessing capital adequacy, the proposed supplemental adjusted capital measure will further certain policy objectives. By including an assessment of off-balance-sheet risk as part of the supplemental adjusted capital ratio, this measure would permit the Board to address off-balance-sheet exposures, which, as indicated above, have expanded rapidly over the last several years. The proposed measure would also temper somewhat the disincentives inherent in the existing Guidelines to hold low-risk, relatively liquid assets. In addition, adoption of this proposal would begin to move capital adequacy policies in the United States more closely in line with those of other major industrial countries. Finally, the proposed measure would provide more explicit guidance to bankers and examiners for relating capital to risk profiles.

2. Description of the Proposal

Introduction and Overview

This proposal involves a risk-sensitive capital measure that would supplement the Board's existing Capital Guidelines. The proposal is based upon an additional capital ratio, in this case a ratio of primary capital to total assets adjusted for risk, that the Board will consider in tandem with, rather than in place of, the minimum primary and total capital ratios defined in the current Guidelines. The proposed supplemental adjusted capital measure would be incorporated as an additional section of the current Capital Adequacy Guidelines, Appendix A to Regulation Y, 12 CFR Part 225.

Moreover, while the proposal endeavors to relate in a more systematic fashion an organization's capital needs to its overall risk profile, the proposed supplemental adjusted capital ratio does not purport to take explicit account of all of the many types of risks to which banking organizations are exposed. For example, the proposal does not take explicit account of the risks associated with significant asset concentrations, or with exposure to interest rate changes. In addition, the measure is not intended

to substitute for examiner judgment in the assessment of an organization's capital adequacy. If the supplemental capital measure is adopted, examiners and regulators will still be required to consider the entire range of qualitative and subjective factors, such as the quality of an organization's management, internal systems and controls, and lending standards, as well as other relevant financial factors, such as the quality of assets and the strength, trend and variability of earnings and liquidity, in order to assess fully an organization's capital adequacy.

The Supplemental Adjusted Capital Ratio

The proposed supplemental adjusted capital measure would relate primary capital, as defined in the Board's current Guidelines, to total assets weighted for risk considerations. To determine the asset portion of the supplemental adjusted capital ratio, assets and certain off-balance-sheet items are assigned to one of four broad risk categories and weighted according to the relative risk of that category. The determination of asset groupings and the assignment of weights primarily reflect credit risk considerations, with some sensitivity to liquidity concerns. The types of assets and off-balance-sheet items in each category and the rationale for assigning certain items to a particular category are discussed below. The proposed amendment to the Guidelines contains a listing of the components of each risk category and the weight assigned to that category.

a. Category I: Cash and equivalents. This category includes assets generally considered to be riskless such as vault cash and balances due from Federal Reserve Banks, balances due from foreign central banks in immediately available funds, and "near cash" assets, such as cash items in the process of collection and transaction accounts due from U.S. depository institutions.¹ In addition, United States Treasury securities held in the investment account with original or remaining maturities of one year or less are included in this category. These items are assigned a zero weight.

¹ The terms U.S. banks and U.S. depository institutions for purposes of this proposal refer to depository institutions chartered under the laws of the United States and include the foreign branches of these institutions. While banks chartered in the U.S. that are subsidiaries of foreign banking organizations are also included in the definition, U.S. branches and agencies of foreign banks are not considered to be U.S. banks or depository institutions for purposes of the supplemental adjusted capital measure.

b. Category II: Money market risk.

The assets included in this category generally have little or not risk of default and a high degree of liquidity. This category includes all holdings of long-term (remaining maturity of over one year) United States Treasury securities, all United States government agency securities, and those portions of loans that are fully guaranteed by the United States government, as well as short-term (90 days or less) claims on U.S. depository institutions. Other money market instruments comprise a significant portion of the remaining assets in this category, including acceptances of other U.S. banks, all Fed funds sold, loans to broker/dealers secured by United States Treasury or agency securities, and securities purchased under agreements to resell. In addition, this category includes all trading account assets, which are typically marked to market on a regular basis. Finally, all legally binding loan commitments, including note issuance facilities² are included in this category. These items are assigned a 30 percent risk weight.

c. Category III: Moderate risk.

This category is composed on those assets with more credit and liquidity risk than those in Category II, but significantly less risk than the standard commercial bank loan portfolio. Included in this category are: all state, county, and municipal ("SCM") securities (excluding industrial development bonds); longer-term claims (over 90 days) of U.S. depository institutions; all claims on governments and banks in industrial countries (as defined herein); holdings of acceptances of banks in industrial countries; and local currency claims on governments and banks of non-industrial countries to the extent funded by local currency liabilities.³ Also included are loans to broker/dealers collateralized by other marketable securities (as defined by the SEC), commercial letters of credit, and standby letters of credit which are performance-related, or issued on a secured basis to support broker/dealers, or issued in support of SCM securities (excluding those supporting industrial development bonds). This risk category is assigned a 60 percent weight.

² A note issuance facility is a medium-term (5 to 7 years) commitment to help a borrower obtain short-term financing. Participating banks commit to provide funds under a revolving credit or standby arrangement if the client fails to sell notes within a range of predetermined contractual rates.

³ "Banks" are defined to include their foreign branches and are categorized by the country under whose laws they are chartered.

d. Category IV: Standard risk. This category generally comprises those assets found in a typical bank loan portfolio and those not included in the categories above. Thus, this category includes commercial and industrial loans and leases, loans to individuals, loans secured by real estate, farm-related loans, and all other claims on foreign borrowers. This category also includes loans to nondepository financial institutions including insurance companies, mortgage companies, finance companies and bank holding companies. The category is further comprised of all corporate securities and commercial paper, industrial development bonds, and all other standby letters of credit (including those backing industrial development bonds) that are not included in categories above. Finally, the category includes loans sold with recourse, including those that, in the case of bank holding companies, may not, under generally accepted accounting principles, be retained as assets on the balance sheet.

(Under bank call report instructions, loans sold with recourse are not removed from the balance sheet.) This risk group contains the bulk of banking assets, including many of significantly dissimilar risk characteristics. This category is assigned a 100 percent risk weight.

Table I contains a list of the types of assets and off-balance-sheet items found in each risk category and the weighting of each category.

Table I.—Risk Categories and Weights

Cash and Equivalents (Weight 0%):

- U.S. currency and coin and balances due from Federal Reserve banks.
- Cash items in process of collection and transaction accounts due from U.S. depository institutions.*
- Short-term** U.S. Treasury securities in investment account.
- Foreign currency and balances due from central banks in immediately available funds.

Money Market Risk (Weight 30%):

- Long-term U.S. Treasury securities held in investment account.
- U.S. Government agency securities held in investment account.
- Those portions of loans that are fully guaranteed by U.S. Government.
- Short-term claims (90 days or less) on U.S. depository institutions.
- Acceptances of other U.S. banks.
- All Fed funds sold.

Table I.—Risk Categories and Weights—Continued

Loans to broker/dealers collateralized by U.S. Treasury and agency securities, and securities purchased under agreement to resell (RPs).

Assets held in trading account.

Legally binding loan commitments (including note issuance facilities).

Moderate Risk (Weight 60%)

- All state, county and municipal (SCM) securities held in investment account (excluding industrial development bonds).
- All other claims on U.S. depository institutions.
- All claims on governments and banks of industrial countries.
- Acceptances of banks in industrial countries.
- Local currency claims on governments and banks of non-industrial countries.***
- Loans to broker/dealers collateralized by other marketable securities.
- Commercial letters of credit.
- Standby LCs (net) backing SCM securities (excluding those backing industrial development bonds), supporting broker/dealers on secured basis for performance related.

Standard Risk (Weight 100%)

- All assets found in a typical bank loan portfolio, including:
 - All commercial and industrial loans and leases.
 - Residential real estate and individual loans.
 - Loans to nondepository financial institutions.
- All other claims on foreign obligors.
- Corporate securities and commercial paper, and industrial development bonds.
- Customers' acceptance liabilities.****
- All assets not included elsewhere.
- All other standby LCs (net), including those backing industrial development bonds.
- Loans sold with recourse.*****

*U.S. depository institutions refers to depository institutions chartered under the laws of the United States and the foreign branches of those institutions and such U.S. depository institutions that are subsidiaries of foreign banking organizations. U.S. branches and agencies of foreign banks are not U.S. depository institutions.

**Short-term Treasury securities are those with an original or remaining maturity of one year or less.

***To the extent funded by local currency liabilities. If not funded by local currency liabilities, such local currency claims are included in the Standard Risk category.

****Include customers' liabilities associated with acceptance participations purchased. Participations sold are included in Money Market Risk if the purchaser is a U.S. depository institution. Moderate Risk if the purchaser is a bank in an industrial country, and Standard Risk for all other purchasers.

*****Include loans involved in transactions of the type that are required to be reported as borrowings (as opposed to sales) under bank call report instructions. For purposes of the supplemental adjusted capital measure, bank holding companies should include the same type of items in this category even if, under generally accepted accounting principles, such loans sold with recourse may be treated as sales and removed from the balance sheet.

The aggregate dollar value of the items in each category would be multiplied by the weight assigned to that category. The sum of these weighted

values would be the weighted risk asset and off-balance sheet total against which actual primary capital would be compared. The ratio derived by dividing primary capital by this weighted total

would be defined as the supplemental adjusted capital ratio. Table II provides an example of how this supplemental adjusted capital ratio would be calculated.

TABLE II.—ILLUSTRATION OF CALCULATION OF SUPPLEMENTAL ADJUSTED CAPITAL MEASURE

Risk category	Dollar amount of items in category	×	Risk weight	Weighted risk assets and off-balance sheet items
Cash and equivalents	5,000	×	0	0
Money market, risk	35,000	×	.30	10,500
Moderate risk	30,000	×	.60	18,000
Standard risk	80,000	×	1.00	80,000
Total (including \$100,000 in aggregate assets and \$50,000 in off-balance sheet items)	150,000			108,500
Aggregate primary capital	7,000			
Primary capital to total assets ratio (as defined under existing Guidelines)	7,000	=	7.0%	
	100,000			
Supplemental adjusted capital ratio (as proposed)	7,000	=	6.5%	
	108,500			

Note.—This example assumes a bank with total assets (before deducting the loan loss reserve) of \$100,000, off-balance sheet items of \$50,000, and primary capital \$7,000.

The choice of groupings for assets and off-balance-sheet items reflects an effort to delineate reasonable risk categories while avoiding excess complexity. In addition, the Board paid close attention to the treatment afforded assets and off-balance-sheet items in similar risk asset systems abroad. Finally, decisions on where to slot certain items and where to set relative risk weights were influenced by a desire to avoid artificial pricing distortions which might lead to awkward or undesirable changes in credit flows or financing practices, and to temper the gradation of implied capital costs between items in the various risk categories.

In developing this proposal, the Board made difficult policy decisions involving the treatment of country risk and off-balance-sheet items. First, the proposal draws a distinction between claims on governments and banks in industrial countries, i.e., those presently designated as such by the International Monetary Fund (IMF) and World Bank, versus claims on governments and banks in all other countries.⁴ This

distinction represents the most acceptable alternative among a variety of possible groupings intended to distinguish, in a broad sense, among differences in transfer risk, that is, the possibility that an asset cannot be serviced in the currency of payment because of a lack of foreign exchange needed for payment in the country of the obligor. The Board views the approach embodied in this proposal as more workable than a country by country evaluation of transfer risk that would require frequent updating and revision.

All claims on banks and governments in industrial countries would be included in the Moderate Risk category. This treatment is designed to minimize the possible distortions in credit flows in the international interbank money market which would result from substantially different capital requirements for claims on domestic and foreign banks competing alongside one another in the market. The list of industrial countries includes just about all countries with significant international banks, while excluding the countries viewed by the market as likely to entail a meaningful degree of transfer risk. Claims involving transfer risk on banks and governments in non-industrial countries, and all claims on private nonbank borrowers in foreign countries, would be included in the

Standard Risk category. Although the proposed group of industrial countries for risk asset purposes currently comprises those nations designated as such by the IMF and World Bank, developments in the future could warrant a modification of this designation. Thus, the designation for risk asset purposes may not at all times coincide with the IMF and World Bank lists.

The proposed treatment of claims on foreign banks incorporated in this proposal differs from the typical approach in risk-based capital measures used in other industrial countries. Generally speaking, those measures assign a very low (often zero) risk weight to claims on their own government, while assigning claims on all other governments to the equivalent of a standard risk category. In terms of interbank claims, however, the typical approach is to combine claims on all foreign and domestic banks and place both of these types of assets in the same relatively low risk category. By and large, this latter approach was developed prior to the advent of significant concerns over country or transfer risk. Therefore, it does not recognize how claims on banks in different countries can be affected by transfer risk, including those claims on banks in the less developed countries which have been involved in extensive debt restructurings. Moreover, such an approach has the anomalous effect of placing claims on foreign banks in a lower risk category than claims on the governments that are generally viewed as providing the safety net for these banks. Finally, assigning a lower risk treatment to claims on foreign banks than on their governments could create unintended incentives to substitute claims on banks for claims on other parties that may be involved in debt restructurings. For these reasons, the Board felt it necessary to depart from the more or less typical approach to the treatment of interbank claims.

The Board also made certain basic decisions involving the treatment of various types of off-balance-sheet items. The proposal divides standby letters of credit into two broad components. The first such component, which is included in the Moderate Risk category, consists of performance bonds, secured letters of credit supporting broker/dealers, and standbys supporting state and local government securities (excluding those supporting industrial development bonds). The second component, which would be assigned to the Standard Risk category, consists of all other standbys, including those backing commercial

⁴ Industrial countries as currently designated by the IMF and World Bank include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom, West Germany.

paper, industrial development bonds, and other financial instruments and loans included in the Standard Risk category. This broad distinction is based on the nature of the underlying credit risk and how that risk would be treated if it were on the balance sheet. The distinction also is generally consistent with the way in which comparable off-balance-sheet items are treated in risk asset frameworks abroad.

The proposal places two other off-balance-sheet items, legally binding commitments and note issuance facilities in the Money Market Risk category. The placement of these items in the Money Market Risk category, rather than a higher risk category, was influenced by the following considerations: (1) These commitments often retain a conditional, as well as contingent, character as a consequence of "adverse material change" clauses and other covenants which may enable banks to avoid losses by avoiding or curtailing drawdowns; (2) unlike standby letters of credit, when drawings on commitments do occur they carry a greater likelihood that the resulting assets will be of higher quality; (3) supervisors should be evaluating the volume of these commitments in terms of the overall funding capacity of a bank, not just its capital adequacy; and, perhaps most importantly, (4) it seems more appropriate to impose a relatively low capital charge to give banks time to adjust their commitment policies to any amendment to the Guidelines that includes off-balance-sheet risk.

There are other aspects of off-balance-sheet risk associated with securities and foreign exchange trading activities and managing interest rate risk, including interest rate swaps. In this regard, adoption of a supplemental capital measure that takes account of some types of risk may require the use of more refined supervisory techniques to measure (1) risk involved in securities and foreign exchange trading activities at those banking organizations which are heavily involved in such activities, and (2) interest rate exposure resulting from the rate sensitivity of assets, liabilities and off-balance-sheet activities. As discussed below, the Board is seeking comment on how some of these risks might be assessed within the proposed supplemental adjusted capital framework.

Administration of a Risk-Based Capital Measure

As the current Guidelines emphasize with respect to primary and total capital ratios, the proposed supplemental adjusted capital ratio would be used as a guideline in the assessment of capital

adequacy. The Board wishes to emphasize that the introduction and calculation of a supplemental capital measure adjusted to account for some forms of risk would in no way lessen the need for supervisors and examiners to make judgments on capital adequacy—judgments which reflect a broad mix of qualitative and quantitative considerations. Thus, in assessing an organization's capital adequacy, examiners must consider, among other things, the quality, trend and variability of earnings; liquidity and the structure of liabilities; vulnerability to interest rate changes; the quality of management, internal systems and controls and operating procedures; the effectiveness of loan and investment policies; and the quality of loans and investments.

In the assessment of capital adequacy, asset quality considerations are especially critical. These include the risk composition and profile of the loan portfolio, credit and sovereign risk concentrations, and the level and severity of examiner classified and criticized assets. Before an overall assessment of capital adequacy can be made, therefore, examiners must take into account all of these factors, including, in particular, the level and severity of classified assets.

The Board proposes to use the supplemental adjusted capital ratio in tandem with the current primary and total capital-to-total assets ratios. Thus, if this proposal is adopted, individual banking organizations would still be subject to an overall constraint on total leverage, with the supplemental adjusted capital measure used as an additional guideline designed to encourage banking organizations to make appropriate adjustments in either the risk composition of their portfolios or their overall level of primary capital. To minimize public confusion and facilitate tandem operation, this proposal contemplates eliminating existing zones for total capital, while retaining the current minimum guidelines for the primary and total capital ratios, at 5.5 percent and 6.0 percent, respectively, for all banking organizations.

As is the case under the Board's current Guidelines, this proposal envisions that supplemental adjusted capital ratios would be calculated for all state member banks and bank holding companies on a consolidated basis. (Bank holding companies with less than \$150 million in consolidated assets would be exempt under the same terms and conditions as provided in the current Guidelines.) The risk asset framework would be employed to

evaluate the capital of all banking organizations regardless of size since the rationale for relating capital needs to risk profiles applies to both large and small institutions. Nonetheless, it is important to point out that many of the considerations driving the development of this supplemental adjusted capital measure at this time are primarily operative at larger banking organizations. In particular, these institutions have been the primary participants in those off-balance-sheet activities that the proposed standards seeks to address, and these organizations in recent years have also decreased their relative holdings of liquid assets.

In light of these considerations, the Board proposes to establish numerical zones for the supplemental adjusted capital ratio, but to limit the application of such zones to banking organizations with assets of \$1 billion or more (the regional and multinational institutions). For smaller organizations, those with assets totaling less than \$1 billion, supplemental adjusted capital ratios would be computed in the same manner as for larger institutions, but zones would not be employed. Rather a smaller organization's supplemental adjusted capital ratio would be calculated and considered in light of the quality and diversification of its loan portfolio and other local risk considerations. In this regard, it is important to note that the proposed risk-adjusted asset measure is not particularly sensitive to large concentrations of exposure within local communities and lending markets—exposures to which small banks are particularly susceptible. Therefore, small (as well as large) organizations with significant asset concentrations will generally be expected to operate above minimum primary and total capital-to-total assets ratios, even if they have relatively high supplemental adjusted capital ratios.

For organizations with assets of \$1 billion or more, the tandem operation of the supplemental adjusted capital ratio and the minimum primary capital ratio is illustrated by the following proposed zone descriptions for the supplemental adjusted capital ratio:

1. *Zone 1*—Organizations with supplemental adjusted capital ratios in this zone would be presumed to have adequate capital in relation to risk, barring significant asset quality or other financial or operating concerns, including excessive asset concentrations. For these organizations, assets could be increased even if the primary capital-to-total asset ratio dropped close to

the existing minimum threshold of 5.5 percent.

2. *Zone 2*—Organizations with supplemental adjusted capital ratios in this zone would be considered to have acceptable capital in relation to risk, depending upon where they were within the zone, as well as how the institution fared on the basis of qualitative and financial considerations. Particularly for organizations in the upper half of the zone, there might be scope for asset growth and declines in the primary capital-to-total asset ratio, barring asset quality or other financial concerns.

3. *Zone 3*—Supplemental adjusted capital ratios in this zone would be below the minimum acceptable level. Organizations with such supplemental adjusted ratios would be presumed to have inadequate capital in relation to risk even if their primary capital-to-total assets ratios were above the 5.5 percent minimum. Such organizations would be expected to develop and submit to their supervisory authorities plans to bring their supplemental adjusted ratios to an adequate level, either by raising new capital or by adjusting the risk profile of their activities.

The proposal does not specify at this time the actual ratio cutoffs for the various supplemental adjusted capital zones. Instead, it would appear to be more appropriate to receive and evaluate public comments on the supplemental adjusted capital measure and to use the information received in establishing numerical zones. The Board hopes to encourage commenters to focus their comments on the underlying policy considerations of this proposal rather than on the mechanical features. The Board will provide an additional opportunity for public comment on the numerical zones.

The Board does invite comment on the factors that it should consider in setting the numerical zones. To that end, the Board offers the following comments on how it proposes to set the zones. Since a principal goal of the supplemental adjusted capital measure is to relate capital needs to risk profiles, the Board will attempt to establish zones at levels that would affect primarily any institution with assets in excess of \$1 billion whose capital position is less than fully adequate in relation to its risk profile. Moreover, the Board will attempt to establish numerical zones that are broadly consistent with prevailing aggregate capital levels in the banking system and with the banking system's ability to generate capital from retained earnings and from the issuance of primary capital securities.

Banking organizations will be able to comply with supplemental adjusted capital measures in several ways, some of which do not require raising new external capital. For example, institutions can moderate their growth

and/or increase their earnings retention. More importantly, however, within a risk sensitive capital framework, an organization can raise its supplemental adjusted capital ratio by reducing its risk profile over time, even though such on- or off-balance-sheet adjustments may not necessarily result in lower total assets. This could be done by reducing off-balance-sheet risk or by placing proportionately greater emphasis on those balance sheet activities that carry lower risk weights.

For all of these reasons, it is not possible to state with certainty how much, if any, additional capital would have to be raised in response to the advent of this proposal. It can be said, however, that a measure that relates capital needs to risk profiles should temper the unintended incentives associated with sole reliance on capital-to-total asset ratios and will encourage those organizations with high risk profiles either to raise additional primary capital to support their risk-bearing activities or to curtail the scope of these activities. The Board believes both of these responses will enhance the financial strength of individual organizations and promote the safety and soundness of the banking systems.

3. Issues for Further Consideration

While seeking public comments on all aspects of the proposal, the Board requests comment in six specific areas as described below.

First, should the Board further refine the Standard Risk category by adding an additional category that would contain certain specified assets that entail risks higher than those typically associated with the Standard Risk group? In particular, should the Board include a category to take account of the higher risks associated with certain nonbanking activities and the holding of nontraditional loans or assets?

The Board could, for example, assign a weight substantially above 100 percent for all assets held by a particular banking organization in connection with certain high risk activities not considered traditional activities for banking organizations. In the alternative, the Board could consider such nontraditional, high risk activities on a nonconsolidated basis and require appropriately higher capital levels for these nontraditional assets separate and apart from the capital required to support the other assets of the banking organization. Another option would be to deduct the capital invested in these high risk subsidiaries from the consolidated organization's primary capital before calculating the supplemental adjusted capital ratio.

Similarly, the Board seeks comments on whether it should attempt to identify certain types of loans that would be moved from the Standard Risk category and placed in a separate category with a risk weight below 100 percent.

By grouping together a wide array of risks in the Standard Risk category, the proposed supplemental adjusted capital measure could still have some unintended incentives for banks to pursue riskier types of lending or high risk nontraditional activities to bolster income, while, possibly, curtailing loans to high quality, low risk borrowers. In light of this concern, consideration was given to grouping certain assets felt to be significantly riskier than others in a separate high risk category with a risk weight above 100 percent. Similarly, as already noted, several types of assets included in the Standard Risk category, such as loans to high quality, high rated borrowers, arguably could be included in a lower risk category. The principal benefit of such an approach would be that it would relate capital needs more closely to an organization's risk profile. It could also serve to discourage certain high risk activities while avoiding disincentives to direct bank lending to high quality, low risk customers.

The major practical drawback, on the other hand, would be the difficulty of defining the boundary line between the types of financing activities that would be included in high or low risk categories. More importantly, this approach could heighten concern over the potential for the supplemental adjusted capital measure evolving into a credit allocation device, and could be interpreted by some institutions as an indication that they were free to expand the volume of high risk lending provided they held the "correct" amount of capital to support that lending. This would go far beyond the intent of the proposed supplemental adjusted capital measure and could potentially undercut other sources of supervisory discipline designed to limit excessive risk-taking. For these reasons the Board did not propose the division of the Standard Risk category into either an additional higher or lower risk category.

Second, should the supplemental adjusted capital measure attempt to take account of concentration of assets? A major factor in analyzing the overall risk of banking organizations is the degree of diversification in the loan and investment portfolios. Because undue asset concentrations violate the widely accepted principle of risk diversification, in theory the supplemental adjusted capital ratio could be further refined by including an

explicit factor for the level of asset concentrations. Practical difficulties exist, however, in defining appropriate business categories for risk assessment purposes and in assigning a meaningful primary business classification to companies that have diversified into many different types of financial and nonfinancial activities. While the proposal contemplates continuation of the current policy whereby examiners subjectively evaluate asset concentrations, the Board seeks comment on whether asset concentrations should be factored *explicitly* into the supplemental adjusted capital ratio and, if so, how this might be done on a practical basis.

Third, the treatment of country risk in the proposal represents a choice among imperfect alternatives. The decision to segregate industrial economies from all others was based on the view that, among the alternatives considered, it would minimize possible distortions in credit flows within the interbank market and among countries. The Board also seeks comment on the most appropriate way to deal with broad country risk considerations.

Fourth, while the supplemental adjusted measure attempts to deal with the major forms of off-balance sheet risk, some off-balance sheet activities that typically involve credit risk are not included in the framework. For example, interest rate swaps, in which a bank acts as a counterparty in arranging the change of interest payment streams between two third-party borrowers, can involve risk if one party defaults and the bank is obligated to assume the role of the defaulting party and replace the stream of cash flows at current market rates. In light of these considerations, the Board seeks comment on how best to assess and incorporate the credit risks associated with interest rate swaps into the proposed supplemental adjusted capital measure. Moreover, commenters are also asked to identify other significant types of off-balance-sheet risks not addressed by the proposal and how such risks could best be factored into the proposed measure.

An additional example of risk exposure not captured in the proposed supplemental adjusted capital measure involves unconsolidated joint ventures. Banking organizations can be exposed to considerable risks through such unconsolidated joint ventures if these entities issue significant amounts of debt and undertake risk-bearing activities. Despite the fact that such risks may not be fully reflected on the bank's consolidated balance sheet, the banking organization may, in effect, be

obligated to support at least its proportionate share of the risk assets of the joint venture or all of the joint venture's assets if the joint venture encounters problems and the other joint venture partners are unable to provide assistance. The Board seeks public comment on whether to deduct investments in unconsolidated joint ventures from primary capital for the purpose of calculating supplemental adjusted capital ratios or whether to employ an alternative technique to capture the exposure of banking organizations to such joint ventures.

Fifth, it would be desirable to supplement the proposed capital measure with more refined techniques to measure the risk involved in securities and foreign exchange trading activities at those banking organizations which are heavily involved in these activities. This could entail applying to banking organizations some of the guidelines and principles on evaluating trading risks that have been developed by the Federal Reserve Bank of New York for evaluating risk at U.S. Government securities dealers. Thus, the Board seeks comment on techniques for evaluating foreign exchange risk, including how the supplemental adjusted capital measure could treat (i) exchange rate and interest rate risk, (ii) counterparty credit risk, and (iii) futures, options and swaps used in foreign exchange operations.

Similarly, it may be appropriate to develop a more systematic approach to assessing overall interest rate risks (as distinct from credit risks) resulting from the rate of assets, liabilities, and off-balance-sheet activities. Such an approach might be used in conjunction with an adjusted capital measure to evaluate vulnerability to changes in interest rates. Therefore, the Board seeks comment on how to factor interest rate risk into the assessment of capital adequacy.

Finally, the Board seeks comment on the long-run administration of the supplemental adjusted capital measure in relation to the existing minimum primary and total capital-to-total assets ratios. As indicated above, the supplemental adjusted capital ratio is to be used in tandem with the Board's existing minimum primary and total capital ratios. However, as banking organizations restructure their balance sheets and reduce their risk profiles, the minimum capital-to-total assets ratio may become binding and prevent further leveraging, even though an individual organization may have a high and strong supplemental adjusted capital ratio. As experience is gained with the supplemental adjusted capital measure,

it may be appropriate to place greater emphasis on this measure over time relative to the capital-to-total assets ratios. In this regard, it may be appropriate in the long-run to reconsider the role of the capital-to-total assets ratios, especially if the supplemental adjusted ratio proves to be a reliable measure of capital needs in relation to overall risk.

Regulatory Flexibility Act Analysis

The Board does not believe that adoption of this proposal would have a significant economic impact on a substantial number of small business entities in this case small bank holding companies and state member banks, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). While all bank holding companies and state member banks would presumably be required to revise their reporting requirements to permit quarterly tracking of Supplemental adjusted capital ratios, the proposal contemplates only for regional and multinational banking organizations (that is, those in excess of \$1 billion in assets) the establishment of objective zones for the proposed supplemental adjusted capital ratio.

In addition, this proposal clearly indicates that it is designed primarily to take account of those practices, such as the increased use of off-balance-sheet risk and the decline in the holdings of low-risk, liquid assets, which have been engaged in primarily by certain larger banking organizations and that it is directed at institutions whose capital positions are less than fully adequate in relation to their risk profiles. Moreover, the Board has indicated that zones would be established at levels that are broadly consistent with prevailing aggregate capital levels in the banking industry and with the banking system's ability to generate capital from retained earnings and from the issuance of primary capital securities. It is not anticipated, therefore, that adoption of this proposal would require a substantial number of banking organizations, including smaller banking organizations, to raise additional capital.

This proposal contemplates a new measure of capital adequacy that supplements, but does not replace, existing capital measures. This proposal does not duplicate, overlap or conflict with any existing federal laws and regulations governing state member banks and bank holding companies.

List of Subjects in 12 CFR Part 225

Banks, banking; Federal Reserve System; Holding companies, Capital adequacy, State members banks.

For the reasons outlined above, the Board proposes to amend Appendix A of 12 CFR Part 225 (Regulation Y) as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for Part 225 is revised to read as follows:

Authority: 12 U.S.C. 1844(b), 3106, 3108, 1817(j)(13), 1818(b), 3907 and 3909.

2. In Part 225, it is proposed to amend Appendix A by remaining the description of total capital zones as follows (Current regulatory language proposed to be deleted appears in brackets.)

Appendix A—Capital Adequacy Guidelines for Bank Holding Companies and State Member Banks

Capital Guidelines

The Board has established a minimum level of primary capital to total assets of 5.5 percent and a minimum level of total capital to total assets of 6.0 percent. Generally, banking organizations are expected to operate above the minimum primary and total capital levels. Those organizations whose operations involve or are exposed to high or inordinate degrees of risk will be expected to hold additional capital to compensate for these risks.

[In addition, the Board has established the following three zones for total capital for banking organizations of all sizes:

	Total Capital Ratio
Zone 1	Above 7.0%
Zone 2	6.0% to 7.0%
Zone 3	Below 6.0%

The capital guidelines assume adequate liquidity and a moderate amount of risk in the loan and investment portfolios and in off-balance sheet activities.* * *

Supervisory Action

The nature and intensity of supervisory action will be determined by an organization's compliance with the required minimum primary capital ratio as well as by the zone in which the company's total capital ratio falls. Banks and bank holding companies with primary capital ratios below the 5.5 percent minimum will be considered undercapitalized unless they can demonstrate clear extenuating circumstances. Such banking organizations will be required to submit an acceptable plan for achieving

compliance with the capital guidelines and will be subject to denial of applications and appropriate supervisory enforcement actions.

[The zone in which an organization's total capital ratio falls will normally trigger the following supervisory responses, subject to qualitative analysis:

For institutions operating in Zone 1, the Federal Reserve will:

—consider that capital is generally adequate if the primary capital ratio is acceptable to the Federal Reserve and is above the 5.5 percent minimum.

For institutions operating in Zone 2, the Federal Reserve will:

—pay particular attention to financial factors, such as asset quality, liquidity, off-balance sheet risk, and interest rate risk, as they relate to the adequacy of capital. If these areas are deficient and the Federal Reserve concludes capital is not fully adequate, the Federal Reserve will intensify its monitoring and take appropriate supervisory action.

For institutions operating in Zone 3, the Federal Reserve will:

—consider the institution is undercapitalized, absent clear extenuating circumstances;
—require the institution to submit a comprehensive capital plan, acceptable to the Federal Reserve, that includes a program for achieving compliance with the required minimum ratios within a reasonable time period; and
—institute appropriate supervisory and/or administrative enforcement action, which may include the issuance of a capital directive or denial of applications, unless a capital plan acceptable to the Federal Reserve has been adopted by the institution.]

3. In Part 225, it is proposed to amend Appendix A by adding a Supplemental Adjusted Capital Measure to the end of the Appendix as follows:

Supplemental Adjusted Capital Measure

In addition to its reliance on the ratios of primary capital and total capital to total assets, the Board will assess the capital adequacy of bank holding companies and state chartered banks that are members of the Federal Reserve System, on the basis of a ratio of primary capital to total assets (including certain off-balance sheet items) adjusted for risk. For purposes of the supplemental adjusted capital ratio "primary capital" is comprised of the same components and calculated in the same manner as defined above in the section of these Guidelines entitled "Definition of Capital to be Used in Determining Capital Adequacy of Bank Holding Companies and State Member Banks."

The assets component of the supplemental adjusted capital ratio is computed in accordance with the following list of risk categories and weights. The assets of a bank holding company or state member bank, as well as certain off-balance-sheet items are assigned to one of four broad risk categories.

The aggregate dollar value of the assets and off-balance-sheet items in each category is multiplied by the weight assigned to that category. The sum of these weighted values would be the weighted risk asset and off-balance sheet total against which actual capital is compared. The ratio derived by dividing primary capital by this weighted total is the supplemental adjusted capital ratio.

Table I.—Risk Categories and Weights

<i>Cash and Equivalents</i> (Weight 0%):
U.S. currency and coin and balances due from Federal Reserve banks
Cash items in process of collection and transaction accounts due from U.S. depository institutions*
Short-term** U.S. Treasury securities in investment account
Foreign currency and balances due from central banks in immediately available funds
<i>Money Market Risk</i> (Weight 30%):
Long-term U.S. Treasury securities held in investment account
U.S. Government agency securities held in investment account
Those portions of loans that are fully guaranteed by U.S. Government
Short-term claims (90 days or less) on U.S. depository institutions
Acceptances of other U.S. banks
All Fed funds sold
Loans to broker/dealers collateralized by U.S. Treasury and agency securities, and securities purchased under agreement to resell (RPs)
Assets held in trading account
Legally binding loan commitments (including note issuance facilities)
<i>Moderate Risk</i> (Weight 60%):
All state, county and municipal (SCM) securities, held in investment account (excluding industrial, development bonds)
All other claims on U.S. depository institutions
All claims on governments and banks of industrial countries
Acceptances of banks in industrial countries
Local currency claims on governments and banks of non-industrial countries***
Loans to broker/dealers collateralized by other marketable securities
Commercial letters of credit
Standby LCs (net) backing SCM securities (excluding those backing industrial development bonds), supporting broker/dealers on secured basis or performance related
<i>Standard Risk</i> (Weight 100%):
All assets found in a typical bank loan portfolio, including:
All commercial and industrial loans and leases
Residential real estate and individual loans
Loans to nondepository financial institutions
All other claims on foreign obligors
Corporate securities and commercial paper, and industrial development bonds
Customers' acceptance liabilities***
All assets not included elsewhere

Table I.—Risk Categories and Weights—Continued

All other standby LCs (net), including those backing industrial development bonds
Loans sold with recourse****

*U.S. depository institutions refers to depository institutions chartered under the laws of the United States and the foreign branches of those institutions, and such U.S. depository institutions that are subsidiaries of foreign banking organizations, U.S. branches and agencies of foreign banks are not U.S. depository institutions.

**Short-term Treasury securities are those with an original or remaining maturity of one year or less.
***To the extent funded by local currency liabilities. If not funded by local currency liabilities, such local currency claims are included in the Standard Risk category.
****Include customers' liabilities associated with acceptance participations purchased. Participations sold are included in Money Market Risk if the purchaser is a U.S. depository institution, Moderate Risk if the purchaser is a bank in an industrial country, and Standard Risk for all other purchasers.
*****Include loans involved in transactions of the type that are required to be reported as borrowings (as opposed to sales) under bank call report instructions. For purposes of the supplemental adjusted capital measure, bank holding companies should include the same type of items in this category even if, under generally accepted accounting principles, such loans sold with recourse may be treated as sales and removed from the balance sheet.

TABLE II.—ILLUSTRATION OF CALCULATION OF SUPPLEMENTAL ADJUSTED CAPITAL MEASURE

Risk category	Dollar amount of items in category	×	Risk weight	Weighted risk assets and off-balance sheet items
Cash and equivalents	5,000	0		0
Money market risk	35,000	.30		10,500
Moderate risk	30,000	.60		18,000
Standard risk	80,000	1.00		80,000
Total (including \$100,000 in aggregate assets and \$50,000 in off-balance sheet items)	150,000			108,500
Aggregate primary capital	7,000			
Primary capital to total assets ratio (as defined under existing Guidelines)	7,000			
	100,000	=	7.0%	
Supplemental adjusted capital ratio (as proposed)	7,000			
	108,500	=	6.5%	

Note.—This example assumes a bank with total assets (before deducting the loan loss reserve) of \$100,000, off-balance sheet items of \$50,000, and primary capital of \$7,000.

Supervisory Action

While the supplemental adjusted capital ratio establishes a guideline for assessing the capital adequacy of individual banking organizations, the ratio measures only certain types of risk in a general and relatively broad manner. The Board will continue to make judgments on capital adequacy in individual cases, judgments which reflect a broad mix of qualitative and quantitative considerations that may not be contained in the ratio. The Board will continue to consider, among other things, the quality, trend and variability of earnings; liquidity and the structure of liabilities; vulnerability to interest rate changes; the quality of management, internal systems and controls, and operating procedures; the effectiveness of loan and investment policies; and the quality of loans and investments. Asset quality considerations are especially critical in the assessment of capital adequacy. These include the risk composition and profile of the loan portfolio, credit and sovereign risk concentrations, and the level and severity of examiner classified and criticized assets. The Board will continue to assess capital adequacy by (1) calculating and assessing the supplemental adjusted capital ratio, (2) evaluating all other risk factors and, in particular, (3) taking into account the level and severity of classified assets.

The supplemental adjusted capital ratio is to be used in tandem with the primary and total capital-to-total asset ratios as a guide in determining minimum capital requirements. Individual banking organizations will continue to be subject to constraints on total leverage, with the supplemental adjusted capital ratio as an additional guideline to encourage banking organizations to make appropriate adjustments in either the risk composition of their portfolios or the overall level of primary capital. Banking organizations, however, will be required to maintain primary and total capital ratios at least equal to the minimum levels set forth in these Guidelines.

Supplemental adjusted capital ratios should be calculated for all state-member banks and bank holding companies on a consolidated basis.⁵ The Board will use the supplemental adjusted capital measure to evaluate the capital of all banking organizations regardless of size, but it has

⁵ The supplemental adjusted capital ratio for bank holding companies with less than \$150 million in consolidated assets should be calculated on a bank only basis unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage or (2) the holding company or any nonbank subsidiary has outstanding significant debt held by the general public.

established certain objective standards for the ratios of regional and multinational organizations, i.e., those with more than \$1 billion in consolidated assets.

For organizations with assets of \$1 billion or more, the tandem operation of the supplemental adjusted capital ratio and the minimum primary capital ratio is illustrated by the following zone descriptions for the supplemental adjusted capital ratio.

1. *Zone 1*—Organizations with supplemental adjusted capital ratios in this zone would be presumed to have adequate capital in relation to risk, barring significant asset quality or other financial or operating concerns, including excessive asset concentrations. For these organizations, assets could be increased even if the primary capital-to-total asset ratio dropped close to the existing minimum threshold of 5.5 percent.

2. *Zone 2*—Organizations with supplemental adjusted capital ratios in this zone would be considered to have acceptable capital in relation to risk, depending upon where they were within the zone, as well as how the institution fared on the basis of qualitative and financial considerations. Particularly for organizations in the upper half of the zone, there might be scope for asset growth and declines in the primary capital-to-total asset ratio, barring asset quality or other financial concerns.

3. *Zone 3*—Supplemental adjusted capital ratios in this zone would be below the minimum acceptable level. Organizations with such supplemental adjusted ratios would be presumed to have inadequate capital in relation to risk even if their primary capital-to-total assets ratios were above the 5.5 percent minimum. Such organizations would be expected to develop and submit to their supervisory authorities plans to bring their supplemental adjusted ratios to an adequate level, either by raising new capital or by adjusting the risk profile of their activities.

Since the supplemental adjusted capital ratio does not take explicit account of all risk factors, banking organizations with financial or operating characteristics that are cause for supervisory concern, including significant asset problems (as reflected in the level and severity of classified assets), and undue asset concentrations, will be expected to operate above minimum primary and total capital ratios and, if applicable, above the minimum supplemental adjusted capital ratio.

Board of Governors of the Federal Reserve System, January 24, 1986.

William W. Wiles,
Secretary of the Board.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-02-AD]

Airworthiness Directives; Cessna 150, A150, F150, FA150, FRA150, 152, F152, FA152, A152, 170, 172, F172, FR172, P172, R172, 175, 177, F177, 180, 182, F182, FR182, R182, TR182, 185, A185, 188, A188, T188, 190, 195, 205, 206, P206, U206, TU206, TP206, 207, T207, 210, P210, T210, 336, 337, F337, FP337, P337, T337, and T303 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Cessna 150, A150, F150, FA150, FRA150, 152, F152, FA152, A152, 170, 172, F172, FR172, P172, R172, 175, 177, F177, 180, 182, F182, FR182, R182, TR182, 185, A185, 188, A188, T188, 190, 195, 205, 206, P206, U206, TU206, TP206, 207, T207, 210, P210, T210, 336, 337, F337, FP337, P337, T337, and T303 series airplanes. This AD would require relocation of seat stops on certain models, installation of a warning placard concerning proper locking of the seats on all models, and inspection of seat rails and locking mechanism for all models. The FAA has received reports of the seat cushion binding against the door post and cracks in the seat rails which could possibly prevent positive engagement of the seat pin. The actions specified in the proposed AD are necessary to preclude possible inadvertent slippage of the pilot's seat due to improper engagement of the latching mechanism which could result in loss of airplane control.

DATES: Comments must be received on or before May 21, 1986.

ADDRESSES: Cessna Single Engine Service Bulletin SEB85-6 dated March 22, 1985, and Service Information Letter SE83-6 dated March 11, 1983, applicable to this AD may be obtained from Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-02-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas W. Haig, Aerospace

Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:**Comments Invited**

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-02-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion: During the past five years there have been 12 accidents/incidents in which slippage of the pilot's seat was considered contributory. The models involved were Cessna 150K, 150L, 152, 170A, 172F, 172M, 175, 180A, 182H, 185E and A185F airplanes. In addition, during this same period there were 21 Malfunction or Defect reports, involving 14 airplanes, describing cracked and worn seat rails which could possibly lead to failures and seat slippage. These occurrences have been on Cessna 150, 152, 172, 175, 180, 182, 185, and 210 series airplanes. Defective seat rails, whether cracked or worn, could possibly result in a seat lock pin slipping out of place. Further, certain Cessna 172, 180, and 185 series airplanes have seat cushions that could contact the front door post and possibly give a false sensation that the seat lock pin is in place. In either case, seat slippage is a potential. This unexpected seat movement could cause the pilot to lose control with subsequent possible loss of the airplane.

Since this unsafe condition could occur on any of these airplanes, an AD

is being proposed to require inspection and maintenance in accordance with Cessna Single Engine Service Information Letter SE83-6, installation of a seat lock warning placard on all affected airplanes, and reposition of the seat stops on those airplanes identified in Cessna Single Engine Service Bulletin SEB85-6. Repositioning of the seat stops in accordance with this bulletin moves the forward seat stop aft one inch.

The seat rail is an extruded shape which has been installed on all Cessna single engine airplanes built since 1948 with the exception of the Model 208. Twin engine Cessna 336, 227 series and T303 also utilize the same design seat rail. This proposal is applicable to seats with one or two seat locking pin mechanisms.

The FAA has determined there are approximately 170,000 airplanes affected by the proposed AD. The cost of inspecting and modifying these airplanes as required by the proposed AD is estimated to be \$66 for inspections and an additional \$30 for those airplanes requiring modification. The placard Part Number (P/N) 0705097-1 is furnished by Cessna free of charge. The annual cost of inspection is estimated to be \$11,220,000 and a one time estimated modification cost of \$699,000 to the private sector.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting in Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 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.

§ 39.13 [Amended]

2. By adding the following new AD:
CESSNA: Applies to the following
airplanes, certificated in any category:

Models	Serial Nos.
150, 150A	17001 thru 17999; 59001 thru 59018.
150B, 150C, 150D, 150E, 150F, 150G, 150H, 150J, 150K, 150L, 150M.	15059019 thru 15079405.
A150K, A150L, A150M	A1500001 thru A1500734.
152, A152	All.
170, 170A, 170B	18000 thru 27169.
172, 172A, 172B, 172C, 172D, 172E, 172F, 172G, 172H, 172I, 172K, 172L, 172M, 172N, 172P, 172Q.	All.
P172	P17257120 thru P17257189.
R172, R172E, R172F, R172G, R172H, R172J.	All.
R172K	R1722000 thru R1723454.
175, 175A	55001 thru 56777.
175B, 175C	17556778 thru 17557119.
177, 177A, 177B, 177RG	All.
180, 180A	30000 thru 32999.
180A, 180B, 180C	50000 thru 50911.
180D, 180E, 180F, 180G, 180H, 180J, 180K	18050912 thru 18053203.
182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, T182, R182, T182.	All.
185, 185A, 185B, 185C, 185D, 185E, A185E, A185F.	All.
188, A188, A188A, 188B, A188B, T188C	All.
190, 195, 195A, 195B	7001 thru 7994; 16000 thru 16183.
205, 205A	205-0001 thru 205-0577.
206, U206, U206A, U206B, U206C, U206D, U206E, U206F, U206G, U206H, TU206B, TU206C, TU206D, TU206E, TU206F, TU206G.	All.
P206, P206A, P206B, P206C, P206D, TP206A, TP206B, TP206C, TP206D, P206E, TP206E.	P206-0001 thru P206-0603.
207, T207, 207A, T207A	P20600604 thru P20600647.
210, 210A, 210B, 210C, 210D, 210E, 210F, 210G, 210H, 210J, 210K, 210L, 210M, 210N, P210N, T210F, T210G, T210H, T210J, T210K, T210L, T210M, T210N, 210R, T210R, P210R.	All.
336	336-0001 thru 336-0195.
337, 337A, 337B, 337C, 337D, 337E, 337F, 337G, 337H, T337C, T337D, T337E, T337F, T337G, T337H, P337H, T337H-SP.	All.
T303	All.
F150F, F150G, F150H, F150J, F150K, F150L, F150M, FA150K, FA150L, FRA150L, FRA150M.	All.
FA152, F152	All.
FP172	FP172-0001 thru FP172-0003.
F172D, F172E, F172F, F172G, F172H, F172K, F172L, F172M, F172N, F172P, F172E, F172F, F172G, F172H, F172J, F172K.	All.
F177RG	All.
F182P, F182Q	All.
F182G	All.
F337E, F337F, F337G, F337H.	All.
FP337	All.

Compliance: Required as indicated in the body of the AD, unless previously accomplished.

To assure proper engagement of the seat locking mechanism to preclude inadvertent seat slippage, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, install on the instrument panel, in full view of the pilot, Cessna placard part number 0705097-1, or fabricate and install a placard with a minimum letter of 1/8 inch which states: "WARNING: ASSURE THAT SEAT IS LOCKED IN POSITION PRIOR TO TAXI, TAKEOFF, AND LANDING", and operate in accordance with this warning.

The holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him may fabricate and install the above placard. The person accomplishing this must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(b) For airplanes having less than 1,000 hours TIS on the effective date of this AD, prior to accumulating 1,000 hours TIS and each 100 hours TIS thereafter, accomplish the following:

(1) Inspect the seat rails for cracks per Cessna Single Engine Service Information Letter SE83-6 dated March 11, 1983. Prior to further flight replace seat rails exceeding the crack criteria as specified in the above Service Information Letter within an airworthy part.

(2) Visually inspect the seat rails holes for dirt and any debris which may preclude engagement of seat locking pin(s). Prior to further flight remove any such dirt or debris.

(c) For aircraft having more than 1,000 hours TIS on the effective date of this AD, within the next 100 hours TIS and each 100 hours TIS thereafter, accomplish the visual inspection and, if necessary, the specified repairs listed in paragraph (b)(1) and (b)(2) of this AD.

(d) For Models 172K, 172L, 172M, 172N, (serial numbers 17258487 thru 17272884); R172G, R172H, R172J, (serial numbers R1720410 thru R1720625 (T-41's)); R172K, (serial numbers R1722000 thru R1723199); 180H, 180J, 180K, (serial numbers 18052104 thru 18053203); 185E, 185F, (serial numbers 1851600 thru 1854418); F172H, F172K, F172L, F172M, F172N, (serial numbers F17200655 thru F17201909); and FR172G, FR172H, FR172J, FR172K, (serial numbers FR17200146 thru FR17200655) airplanes, within the next 100 hours TIS after the effective date of this AD, reposition the seat stops in accordance with Cessna Single Engine Service Bulletin SEB85-6, dated March 22, 1985.

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Cessna Aircraft Company, Customer Service, P.O. Box 1521, Wichita, Kansas 67201 or Federal Aviation Administration, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 21, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-2184 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ASO-7]

Proposed Alteration of Control Zone, Fort Myers, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: This action withdraws a proposal published in the *Federal Register* on April 1, 1985 (50 FR 12818), to amend Part 71 of the Federal Aviation Regulations. The proposed amendment would have altered the two control zones which are associated with Page Field and Southwest Florida Regional Airport, Fort Myers, Florida. These proposed alterations would have resulted from a planned relocation of the Fort Myers VORTAC facility from its present position adjacent to Page Field to a new site near Southwest Florida Regional Airport. Subsequent to the publication of the Notice of Proposed Rulemaking, it was determined that the planned relocation, which was to have occurred in November 1985, has been post-poned until mid-1987. As a result, the FAA has determined that the proposed alterations are not appropriate at this time. When more definitive plans for the VORTAC relocation are developed, the FAA will issue another Notice of Proposed Rulemaking concerning this matter.

DATE: Withdrawal effective February 28, 1986.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Withdrawal of the Proposal

Pursuant to the authority delegated to me under 14 CFR 11.65, effective February 28, 1986, the proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as described in Airspace Docket No. 85-ASO-7, and published in the *Federal Register* on Monday, April 1, 1985 (50 FR 12818), is hereby withdrawn.

Issued in East Point, Georgia, on January 15, 1986.

William H. Pollard,

Acting Director, Southern Region.

[FR Doc. 86-2177 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AAL-2]

Proposed Establishment of Quinhagak, AK, Transition Area—AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area with a base 700 feet above the surface at Quinhagak, AK, (lat. 59°45'24" N., long. 161°52'48" W.). A public instrument approach procedure has been developed and a transition area is needed to provide protected airspace for the approach/departure and missed approach procedures.

DATES: Comments must be received on or before March 17, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Alaska region, attention: Manager, Air Traffic Division, Docket No. 85-AAL-2, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Burton Chandler, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AAL-2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of

Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area with a base 700 feet above the surface at Quinhagak, AK, (lat. 59°45'24" N., long. 161°52'48" W.). A public instrument approach procedure has been developed and a transition area is needed to provide protected airspace for the approach/departure and missed approach procedures. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11

apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Quinhagak, AR [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Quinhagak Airport (lat. 59°45'24" N., long. 161°52'48" W.) and within 9.5 miles northwest and 4.5 miles southeast of the 051°T(033° M) radial from the Quinhagak VOR (lat. 59°45'09" N., long. 161°53'6" W.) extending from the VOR to 18.5 miles northeast of the VOR.

Issued in Washington, DC., on January 23, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-2179 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-31]

Proposed Transition Area Revocation, Hettinger, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revoke the transition area currently designated for Hettinger, North Dakota by returning the associated 700-foot area to a non-controlled status and redesignating the 1,200-foot transition area.

DATES: Comments must be received on or before March 7, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-31, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Hettinger, North Dakota 1,200-foot and 700-foot transition areas were established in anticipation that an instrument approach procedure would be developed for Hettinger Municipal Airport and that the areas would be needed to ensure the segregation of aircraft utilizing the instrument approach from other aircraft operating under Visual Flight Rules (VFR) while in controlled airspace. That approach procedure was never developed and there is no pending action for any such development. Therefore, the 700-foot area is neither necessary or warranted.

The controlling facility for the area has identified a requirement to retain the 1,200-foot designated airspace for the area; therefore, the 1,200-foot Hettinger, ND, transition area will be retained.

Aeronautical maps and charts will reflect the area returned to a non-controlled status.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR

Part 71) to revoke the designated 700-foot transition area for Hettinger, ND.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

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

List of Subjects in CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By Amending Section 71.181 as follows:

Hettinger, ND

That airspace extending upward from 1,200 feet above the surface of Hettinger Municipal Airport (lat. 46° 00' 51" N., long. 102° 39' 14" W.), bounded on the north by the Dickinson VORTAC 079 radial and the Bismarck VOR/DME 263 radial, on the east by the Bismarck VOR/DME 192 radial and the Dupree VORTAC 013 radial, on the south by the Dupree VORTAC 285 radial, to the Bowman, ND 1,200 foot transition area, and on the west by the Bowman, ND and the Dickinson, ND 1,200 foot transition areas, excluding all airspace overlying federal airways.

Issued in Des Plaines, Illinois, on January 17, 1986.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 86-2181 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-30]

Proposed Transition Area Revocation; New Town, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revoke the transition area currently designated for New Town, North Dakota by returning the associated 700-foot area to a non-controlled status and redesignating the 1200-foot transition area.

DATES: Comments must be received on or before March 7, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-30, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The New Town, North Dakota 1,200-foot and 700-foot transition areas were established in anticipation that an instrument approach procedure would be developed for New Town Municipal Airport and that the areas would be needed to ensure the segregation of aircraft utilizing the instrument approach from other aircraft operating under Visual Flight Rules (VFR) while in controlled airspace. That approach procedure was never developed and there is no pending action for any such development. Therefore, the 700-foot area is neither necessary or warranted.

The controlling facility for the area has identified a requirement to retain the 1,200-foot designated airspace for the area; therefore, the 1,200-foot New Town, ND, transition area will be retained.

Aeronautical maps and charts will reflect the area returned to a non-controlled status.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR

Part 71) to revoke the designated 700-foot transition area for New Town, ND.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

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

List of Subjects in CFR Part 71

PART 71—AVIATION SAFETY/TRANSITION AREAS

The Proposed Amendment

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

New Town, ND

That airspace extending upward from 1200 feet above the surface of New Town Municipal Airport (lat. 47°58'01" N., long. 102°28'39" W.), bounded on the east by the Minot, ND 1,200 foot transition area and the Minot VORTAC 203 radial, on the south and west by the Bismarck VOR/DME 295 radial and the Williston VORTAC 109 radial, and on the north by the Williston VORTAC 074 radial and the Minot VORTAC 258 radial excluding the Williston, ND 1,200 foot transition area and all airspace overlying federal airways.

Issued in Des Plaines, Illinois, on January 17, 1986.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 86-2180 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-31]

Proposed Alternation of Wenatchee, Washington, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the transition area at Wenatchee, Washington, to accommodate a new VOR/DME-C instrument approach procedure to the Pangborn Field Airport at Wenatchee, Washington. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 3, 1986.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM-31, 17900 Pacific Highway South, C-68966 Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, Federal Aviation Administration, Docket No. 85-ANM-31, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interest parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-

ANM-31". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule.

The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1,200 foot and 700 foot transition area at Wenatchee, Washington. This action will expand the present transition area to provide controlled airspace for aircraft executing a new VOR/DME-C instrument approach procedure to the Pangborn Field Airport.

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

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The proposed amendment**PART 71—[AMENDED]**

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a) 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

Wenatchee, Washington, Transition Area (Revised)

That airspace extending upward from 700 feet above the surface within 4 miles each side of the Wenatchee VOR 124° radial, extending from the VOR to 12.5 miles southeast of the VOR and that airspace between the 5-mile radius circle of the Pangborn Field Airport (lat. 47°23'56" N., long. 120°12'20" W.) and the 11 DME arc of the Wenatchee VOR/DME bounded by the north edge of V-120 clockwise to the Wenatchee VOR/DME 327° T(305° M) radial, including that airspace within a 1-mile radius of Francher Field, Washington, (lat. 47°26'55" N., long. 120°16'40" W.); that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the Wenatchee VOR 092° and 272° radials, extending from 7 miles west to 14 miles east of the VOR and within 5 miles southwest and 9.5 miles northeast of the 124° radial, extending from the VOR to 23 miles southeast of the VOR and that airspace between the 11 DME and the 19 DME arcs of the Wenatchee VOR/DME bounded by the north edge of V-120 clockwise to the Wenatchee VOR/DME 327° T(305° M) radial.

Issued in Seattle, Washington, on December 4, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-2175 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-34]

Proposed Amendment of Transition Areas; Gunnison, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the 700 foot, and establish a 1,200 foot transition area to provide additional controlled airspace for aircraft executing a new instrument

approach procedure to Gunnison Airport. The purpose is to segregate aircraft operating in instrument weather and other aircraft operating in visual weather conditions. The areas will be shown on aeronautical charts enabling pilots to circumnavigate controlled airspace or otherwise comply with instrument flight rules.

DATES: Comments must be received on or before February 27, 1986.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM-34, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT:

Ted Melland, ANM-533, Federal Aviation Administration, Docket No. 85-ANM-34, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2530.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ANM-34." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned

with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional controlled airspace which would encompass a new instrument approach procedure.

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

List of Subjects in 14 CFR Part 71

Transition area, Aviation safety.

The Proposed Amendment**PART 71—[AMENDED]**

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Gunnison, Colorado [Amended]

That airspace extending upward from 700 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Gunnison VORTAC 045° and 225° radials extending from 12 miles northeast to 19 miles southwest of the VORTAC, and within a 16.5 mile radius of the VORTAC clockwise between the 264° and 294° radials; and that airspace extending upward from 1,200 feet above the surface within a 23-mile radius of the VORTAC clockwise between the 204° and 275° radials.

Issued in Seattle, Washington on December 13, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-2176 Filed 1-28-86; 4:52 pm]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 85-ASO-16]

Proposed Revocation, Realignment and Establishment of Restricted Areas; North Carolina; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This notice announces extension of the comment period on an NPRM which proposes to revoke, realign, establish and increase the size of three Restricted Areas in eastern North Carolina at the request of the U.S. Navy.

DATES: Comments must be received on or before March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:**Background**

Airspace Docket No. 85-ASO-16, published on December 16, 1985, (50 FR 51260) proposed to redesignate and realign R-5301, Albemarle Sound, NC, and R-5302, Harvey Point, NC. Additionally, and increase in the size of R-5313 is proposed. The Continental Control Area would be adjusted according to these actions and the Stumpy Point Military Operations Area would no longer be required and would be cancelled (50 FR 51260). In response to a request from the state of North

Carolina, this action extends the comment period closing date to allow for a 75-day comment period instead of the existing 45-day comment period on Airspace Docket No. 85-ASO-16.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and restricted areas.

Extension of Comment Period

The comment period for Airspace Docket No. 85-ASO-16 is extended to close on March 3, 1986.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69

Issued in Washington, D.C., on January 27, 1986.

Daniel J. Peterson,

Management, Airspace Rules and Aeronautical Information Division.

[FR Doc. 86-2178 Filed 1-28-86; 4:47 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Part 271**

[Docket No. RM79-76-248 (Oklahoma-8)]

High-Cost Gas Produced From Tight Formations; Oklahoma

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982) to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the

recommendation of the State of Oklahoma that the Cherokee Group be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 13, 1986.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 11, 1986.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Edward G. Gingold, (202) 357-9114, or C.W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, OPR

Issued January 27, 1986.

I. Background

On December 13, 1985, the Oklahoma Corporation Commission (Oklahoma) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Cherokee Group located in Roger Mills County, Oklahoma, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Oklahoma's recommendation that the Cherokee Group be designated a tight formation should be adopted. Oklahoma's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Oklahoma has recommended that the Cherokee Group in Township 15 North, Range 22 West, sections 19-23, 28-29, and 31-33 in Roger Mills County, Oklahoma be designated as a tight formation.

The Cherokee Group represents the middle and lower Des Moines Series of the Pennsylvania System in western Oklahoma. It occurs as interbedded sandstone, siltstone, and shale. The recommended group is overlain by the Marmaton Group and underlain by the Atokan Series.

The thickness of the Cherokee Group ranges from 1,400 to 1,600 feet and the depth to the top of the group ranges from 9,000 to 9,200 feet below sea level.

III. Discussion of Recommendation

Oklahoma claims in its submission that evidence gathered through information and testimony presented at

a public hearing in Oklahoma City, Oklahoma convened by Oklahoma on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, or wells completed for production from the recommended group, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended group is expected to produce more than five (5) barrels of oil per day.

Oklahoma further asserts that existing State and Federal Regulations assure that development of this information will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Oklahoma that the Cherokee Group, as described and delineated in Oklahoma's recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before March 13, 1986. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-248 (Oklahoma-8) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC, during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file

the request with the Secretary of the Commission no later than February 11, 1986.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, will be amended as set forth below, in the event the Commission adopts Oklahoma's recommendation.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended adding paragraph (d)(214) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(214) *Cherokee Group in Oklahoma.* RM79-76-248 (Oklahoma-8).

(i) *Delineation of formation.* The Cherokee Group is located in Township 15 North, Range 22 West, Sections 19-23, 28-29, and 31-33 in Roger Mills County, Oklahoma.

(ii) *Depth.* The depth of the top of the Cherokee Group ranges from 9,000 to 9,200 feet below sea level. The thickness ranges from 1,400 to 1,600 feet. The Cherokee Group is overlain by the Marmaton Group and underlain by the Atokan Series.

[FR Doc. 86-2074 Filed 1-30-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 7

[LR-106-77]

Qualified Possession Source Investment Income

Correction

In FR Doc. 86-1236 beginning on page 2726 in the issue of Tuesday, January 21, 1986, make the following correction:

On page 2726, third column, **DATES**, last line, "December 31, 1985" should read "December 31, 1975".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2889-6(a)]

Standards of Performance for New Stationary Sources Industrial Surface Coating; Plastic Parts for Business Machines

Correction

In FR Doc. 86-340 beginning on page 854 in the issue of Wednesday, January 8, 1986, make the following corrections:

§ 60.723 [Corrected]

On page 867, column one, § 60.723(b)(2), in the sixth line after the first equation, the parenthesis ")" should be a zero "0"; in column two, paragraph (ii), third line, "atmosphere" should read "atmosphere"; and in the third column, paragraph (iii), first line, remove the "I".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 60107-6007]

Foreign Fishing; Atlantic Mackerel, Squid, and Butterfish Fisheries

Correction

In FR Doc. 86-1287 beginning on page 2929 in the issue of Wednesday, January 22, 1986, make the following correction: On page 2930, in the first column, in paragraph 6, in the second line, insert "U.S. Commercial," after "among".

BILLING CODE 1505-01-M

50 CFR Part 651

[Docket No. 51190-5190]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: NOAA withdraws the proposed rule to implement the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) that appeared at page 49582 in *Federal Register* of Tuesday, December 3, 1985 (50 FR 49582). The FMP was disapproved by the Regional Director, Northeast Region, National Marine

Fisheries Service, Under section 304(b)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) January 23, 1986, because it is not consistent with the national standards for fishery conservation and management of the Magnuson Act and Fails to meet the requirements of Executive Order 12291 and the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT:

Peter D. Colosi, Jr., Multispecies Plan Coordinator, Northeast Region, NMFS, 617-281-3600, ext. 252.

(16 U.S.C. 1801 *et seq.*)

Dated: January 28, 1986

William G. Gordon,

*Assistant Administrator For Fisheries,
National Marine Fisheries Service.*

NOAA by this document withdraws the proposed rule that appeared at page 49582 in the **Federal Register** of Tuesday, December 3, 1985 (50 FR 49582.)

[FR Doc. 86-2187 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 51, No. 21

Friday, January 31, 1986

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

Rural Electrification Administration

Oglethorpe Power Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500-1508) and REA's Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact with respect to a proposed project by Oglethorpe Power Corporation (OPC). The project consists of construction of 10.9 kilometers (6.8 miles) of 230 kV transmission line from a proposed 230/12 kV substation at Rosier Road, through a proposed 230/12 kV substation at Boykin Road, to the existing Peach Orchard 230 kV Substation, all in Richmond County, Georgia.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and OPC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southeast Area-Electric, Room 0270, South Agriculture Building, REA, Washington, DC 20250, telephone (202) 382-8436, or at OPC's office (Mr. F.F. Stacy, Jr., Manager), 2100 East Exchange Place, Tucker, Georgia 30085-1349, telephone (404) 496-7600.

SUPPLEMENTARY INFORMATION: REA has reviewed OPC's BER and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The proposed project will consist of approximately 10.9 kilometers

(6.8 miles) of 230 kV line, a 230/12 kV substation at Rosier Road on approximately 2.6 hectares (6.6 acres) of land, a 230/12 kV substation at Boykin Road on approximately 1.8 hectares (4.5 acres) of land, and modifications to the Peach Orchard Substation to accommodate this line. REA determined that the proposed project is not likely to affect any threatened or endangered species or critical habitat; it will have no effect upon any property listed or eligible for listing in the National Register of Historic Places; it will have no effect upon any river section in the Nationwide Inventory of Wild and Scenic Rivers; it will not occur in a unit of the Coastal Barrier Resources System; and it will not directly affect the coastal zone.

The proposed transmission line will cross approximately 4.3 acres of wetlands and floodplains. Neither the proposed transmission line nor the substations are critical action facilities. Most of the 100-year floodplains and wetlands will be crossed at existing rights-of-way and the floodplains and wetlands can be spanned. The Spirit Creek 100-year floodplain and wetland will require clearing for new right-of-way, and a structure will be located in the 100-year floodplain and wetland. There are no practicable alternatives to locating in the 100-year floodplain and wetland, and all practicable means to minimize harm will be taken.

The proposed transmission line will cross approximately 3.5 hectares (8.53 acres) of prime farmland and 22.3 hectares (55 acres) of prime forestland. About half of the prime farmland can be crossed adjacent to road or transmission rights-of-way. Much of the farmland in the right-of-way can stay in production for the life of the project. The proposed project will convert prime forestland and a small amount of prime farmland to other uses, but there is a demonstrated significant need for and no practicable alternative to the proposed action, which avoids conversion of these lands or which reduces the area so converted or encroached upon.

Alternatives to the proposed 230 kV transmission line and substations were considered, such as no action, electrical alternatives, alternative sites and alternative routes.

Based upon OPC's BER and supporting documents, REA prepared an

EA concerning the proposed project and its impacts. In accordance with REA's 7 CFR Part 1794, OPC advertised and requested comments on the environmental aspects of the proposed project. No comments were received. REA concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not necessary. This program is listed in the Catalog of Federal Domestic Assistance as 18.850-Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR 3015, Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Dated: January 27, 1986.

Jack Van Mark,

Acting Administrator.

[FR Doc. 86-2142 Filed 1-30-86; 8:45 am]

BILLING CODE 3410-15-M

Forest Service

Intent To prepare an Environmental Impact Statement; Lewis and Clark National Forest; Great Falls, MT

The Department of Agriculture, Forest Service, will prepare an environmental impact statement identifying the planned method for controlling noxious weeds on the Lewis and Clark National Forest during the five-year period, 1986-90. This program is a continuation of an ongoing control effort. About 360 acres per year were treated on the Forest during the five-year period 1981-85.

Spotted knapweed, leafy spurge and other noxious weeds have invaded about 1000 acres of the Lewis and Clark National Forest, and threaten to reduce the productivity and recreation value of these lands. A range of alternatives for treating these sites will be considered. Alternatives to be evaluated will include:

1. No Action.
2. Cultural control by mechanical hand grubbing of weeds.
3. Chemical control by the ground application of herbicides by hand-held sprayer Biological control methods underway on the Forest will be continued under all alternatives. Health

and safety considerations, including an analysis of the health risks to the applicator and the public will be evaluated.

Federal, State, and local agencies, and other individuals or organizations who may be interested in, or affected by, the decisions are invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be considered in depth.
3. Elimination of insignificant issues of those which have been covered by a previous environmental review.

If significant potential impact on threatened and endangered species, or their habitat, are determined during the environmental assessment process, the Fish and Wildlife Service, Department of the Interior, will be consulted for a biological opinion.

The public is invited to comment. Written comments should be mailed by February 7, 1986 to the responsible official: John D. Gorman, Forest Supervisor, Lewis and Clark National Forest, P.O. Box 871, Great Falls, Montana 59403.

The draft environmental impact statement should be available for public review by March, 1986. The final environmental impact statement is scheduled to be completed by May, 1986.

Questions about the proposed action and environmental impact statement should be directed to Wayne Phillips, Ecosystem Coordinator, Lewis and Clark National Forest, P.O. Box 871, Great Falls, Mt. 59403. Phone (406) 727-0901.

Dated: January 21, 1986.

John D. Gorman,
Forest Supervisor.

[FR Doc. 86-2141 Filed 1-30-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to California Dried Fruit Export Trading Company ("CDFETC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT:

James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the *Federal Register*. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products

California raisins, raisin products and products derived from raisins, and California prunes, prune products and products derived from prunes.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Consulting; international market research; advertising; marketing; insurance; product research and design; legal assistance; transportation; trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), Canada, Mexico, all islands adjacent to these countries and all Caribbean islands north of the 12th Parallel but not excluding those islands on the Continental Shelf of South America.

Export Trade Activities and Methods of Operation

1. Each Member independently will dedicate the quantity of Products that it

may make available from time to time for sale in the Export Markets, and determine whether any part of such quantity will be sold independently by the Member, be sold in cooperation with some or all of the other Members, or be made available to CDFETC for sale in the Export Markets. CDFETC may not require any Member to export any minimum quantity of Products.

2. CDFETC and its Members may enter into agreements wherein CDFETC and/or one or more Members agree to act in certain countries or markets as the Members' exclusive or non-exclusive Export Intermediary for the quantity of Products dedicated by each Member for sale by CDFETC or any Member(s) in that country or market. In such agreements, (i) CDFETC or the Member(s) acting as exclusive Export Intermediary may agree not to represent any other Supplier for sale in the Export Markets and (ii) Members may agree that they will export the quantity dedicated for sale in these Export Markets only through CDFETC or the Member(s) acting as exclusive Export Intermediary, and that they will not export independently, either directly or through any other Export Intermediary.

3. CDFETC and/or one or more of its Members may engage in joint bidding or selling arrangements for the Export Markets and allocate sales resulting from such arrangements among the Members.

4. The Members may refuse to deal with Export Intermediaries other than CDFETC and its Members.

5. CDFETC may, for itself and on behalf of its Members, by agreement with its distributors or agents in the Export Markets or with the Members' distributors or agents in the Export Markets, or on the basis of its own determination:

a. Establish the prices at which Products will be sold in the Export Markets;

b. Establish target prices for sales of Products by the Members in the Export Markets, with each Member being free to deviate from such target prices by whatever amount it sees fit;

c. Subsequent to each Member independently dedicating the quantity of Products it may export pursuant to paragraph 1 above and subject to the other limitations set forth in paragraph 1, establish the quantity of Products to be sold in the Export Markets;

d. Allocate the Export Markets or customers in the Export Markets among its Members;

e. Refuse to quote prices for, or to market or sell, Products in the Export Markets; and

f. Enagage in joint promotional activities aimed at developing existing or new Export Markets, such as advertising and trade shows.

6. Subsequent to each Member independently dedicating the quantity of Products it may export pursuant to paragraph 1 above and subject to the other limitations set forth in paragraph 1, CDFETC and its Members may agree on the quantities of Products and the prices at which CDFETC and its Members may sell Products in and for the Export Markets, and may also agree on territorial and customer allocations in the Export Markets among the Members.

7. CDFETC and its Members may enter into exclusive and nonexclusive agreements appointing Export Intermediaries for the sale of Products in the Export Markets. Such agreements may contain the price, quantity, territorial and customer restrictions for the Export Markets contained in paragraph 6 above.

8. CDFETC and its Members may solicit individual non-Member packers or handlers of Products either to sell such Products to CDFETC for sale in the Export Markets or otherwise to combine those non-Member Products with those of some or all of the Members for sale in the Export Markets.

9. CDFETC and its Members may exchange and discuss the following types of information:

a. Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contract and spot pricing in the Export Markets, projected demands in the Export Markets for Products, customary terms of sale in the Export Markets, prices and availability of Products from competitors for sales in the Export Markets, and specifications for Products by customers in the Export Markets;

b. Information about the price, quality, quantity, source, and delivery dates of Products available from the Members for export;

c. Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by CDFETC and its Members;

d. Information about joint bidding or selling arrangements for the Export Markets and allocation of sales resulting from such arrangements among Members, including each Member's share of the previous calendar year's total domestic acquisitions (in tons);

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation,

transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customers, duties, and taxes;

f. Information about U.S. and foreign legislation and regulations, including Federal marketing order programs, affecting sales for the Export Markets; and

g. Information about CDFETC's or its Members' export operations, including without limitation, sales and distribution networks established by CDFETC or its Members in the Export Markets, and prior export sales by Members (including export price information).

10. CDFETC and its Members may prescribe conditions for withdrawal of Members from and admission of Members to CDFETC, including the following:

a. Each Member shall have the right to withdraw at any time without further liability to pay dues or assessments except to pay to the association any remaining amounts due under a written subscription signed by the Member agreeing to make such a contribution; and

b. Membership shall be limited to persons, firms, or organizations who meet the definition of "packer," as defined in 7 CFR 989.14 or "handler" as defined in 7 CFR 993.14.

11. CDFETC and its Members may meet to engage in the activities described in paragraphs one through ten above.

Definitions

"Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

"Supplier" means a person who produces, provides, or sells Products.

Members

A & M Farms, Inc., American Raisin Packers, Boghosian Raisin Packing Co., Inc., Bonner Packing Company, California Prune Packing Co., Caruthers Raisin Packing Company, Central California Raisin Packing Company, Champion Raisin International, Chooljian & Sons dba Del Rey Packing Company, Chooljian Bros. Packing Co., Inc., Enoch Packing Co., Inc., Lion Enterprises, Inc. (d/b/a Lion Dehydrator, Lion Packing Company, Lion Ranches), Lion Packing Company, National Raisin Company, Prize Exports, Inc., Sun-Diamond Growers of California, Sun-Maid Growers of California, Sunsweet Growers Inc.,

Tagus Ranch Packing, Victor Packing, Inc.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: January 27, 1986.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 86-1867 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-DR-M

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on March 11, 1986 from 2:30 p.m. to 4:30 p.m., Room 4830, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel.

Agenda: Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Helen Le Grande (202/377-3737).

Dated: January 23, 1986.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 86-2202 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting at the King's Grant Inn, Danvers, MA, to discuss reports of the surf clam/ocean quahog; lobster; scallop; foreign fishing/squid, mackerel, butterfish; large pelagics, and groundfish oversight committees, as well as to discuss other fishery management and administrative matters. The public meeting will convene on February 11, 1986, at 10 a.m., and will adjourn on February 12, 1986, at approximately 5

p.m., unless the meeting is extended into February 13, due to disapproval of the Atlantic Demersal Finfish Fishery Management Plan by the National Marine Fisheries Service. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, MA 01906; telephone: (617) 231-0422.

Dated: January 28, 1986.

Richard B. Roe.

Director, Office of Fisheries Management,
National Marine Fisheries Service.

[FR Doc. 86-2188 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Crustacean Plan Development Team will convene a public meeting, January 30, 1986, at 12:30 p.m., at the Council's Headquarters, 1164 Bishop Street, Room 1405, Honolulu, HI, to review the validity of logbook data regarding reproductive conditions of spiny lobsters; the need for management measures for slipper lobsters; the economic condition of the fishery for lobsters in the Northwestern Hawaiian Islands, and possible revision of permit applications and data submission forms presently in use. For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368 or FTS: (808) 546-8923.

Dated: January 24, 1986.

Richard B. Roe.

Director, Office of Fisheries Management,
National Marine Fisheries Service.

[FR Doc. 86-2189 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-22-M

Foreign Fishing Permits; Summary of Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; or, send comments to the Fishery Management

Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director,
New England Fishery Management
Council, 5 Broadway (Route 1),
Saugus, MA 01906, 617/231-0422;

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council,
Federal Building Room 2115, 300 South
New Street, Dover, DE 19901, 302/674-2331;

Robert K. Mahood, Executive Director,
South Atlantic Fishery Management
Council, Southpark Building, Suite 306,
1 Southpark Circle, Charleston, SC
29407, 803/571-1366;

Omar Munoz-Roure, Executive Director,
Caribbean Fishery Management
Council, Banco De Ponce Building,
Suite 1108, Hato Rey, PR 00918, 809/
753-6910;

Wayne E. Swingle, Executive Director,
Gulf of Mexico Fishery Management
Council, Lincoln Center, Suite 881,
5401 West Kennedy Blvd., Tampa, FL
33609, 813/228-2815;

Joseph C. Greenley, Executive Director,
Pacific Fishery Management Council,
Metro Building, 2000 S.W. First
Avenue, Portland, OR 97201, 503/221-6352;

Jim H. Branson, Executive Director,
North Pacific Fishery Management
Council, P.O. Box 103136, Anchorage,
AK 99510, 907/274-4563;

Kitty M. Simonds, Executive Director,
Western Pacific Fishery Management
Council, 1164 Bishop Street, Room
1405, Honolulu, HI 96813, 808/523-1368.

For further information contact John
D. Kelly or Shirley Whitted (Fees,
Permits, and Regulations Division, 202-
634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the Federal Register. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1986 have been received from the Governments shown below.

Dated: January 28, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries
Resource Management, National Marine
Fisheries Service.

Fishery codes and designation of Regional
Fishery Management Councils which review
applications for individual fisheries are as
follows:

Code fishery	Regional fishery management councils
ABS Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean, North Pacific.
BSA Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA Gulf of Alaska.	New England, Mid-Atlantic.
NWA Northwest Atlantic Ocean.	North Pacific.
SNA Snails (Bering Sea).	Pacific.
WOC Pacific Groundfish (Washington, Oregon and California).	Western Pacific.
PBS Pacific Billfishes and Sharks.	

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
*	Vessel(s) in support of U.S. vessels (Joint Venture).

Vessel name and type	Application No.	Fishery	Activity
Government of Spain			
Beitarimar Dos, Medium Stern Trawler.	SP-86-0179	NWA	1*
Ria Depontevedra, Medium Stern Trawler.	SP-86-0076	NWA	1*
Isla Montana Clara, Medium Stern Trawler.	SP-86-0128	NWA	1*
Government of German Democratic Republic			
Hans Marchwitz, Large Stern Trawler.	GC-86-0052	NWA	1*
Stubnitz, Factory Ship.	GC-86-0047	NWA	1*
Ludwig Renn, Large Stern Trawler.	GC-86-0054	NWA	1*
Granitz, Large Stern Trawler.	GC-86-0051	NWA	1*
Breitling, Cargo/Transport Vessel.	GC-86-0012	NWA	1*
Lutten Klein, Cargo/Transport Vessel.	GC-86-0026	NWA	1*
Lichtenhagen, Cargo/Transport Vessel.	GC-86-0055	NWA	1*
Willi Bredel, Large Stern Trawler.	GC-86-0024	NWA	1*
Government of Italy			
Carlo D'Alazio, Medium Stern Trawler.	GC-86-0015	NWA	1*

Joint Venture

German Democratic Republic

The Government of the German Democratic Republic (GDR) has submitted permit applications for the fishery year beginning April 1, 1986, to engage in joint venture activities in the Northwest Atlantic Ocean fisheries. The applications request that vessels of East Germany receive 3,000 mt. of U.S.

harvested Atlantic Mackerel. Directed fishing of the same species is also included in this request. The designated American partner is Joint Trawlers, Gloucester, MA.

Spain

The Government of Spain has submitted permit applications to engage in joint venture activities for the fishery year beginning April 1, 1986, in the Northwest Atlantic Ocean fisheries. The applications request that Spanish vessels receive transshipments of U.S. harvested squid during the periods noted in the following amounts:

- May 1 through October 1, 1986.
- 300 mt *Loligo* squid
- 1500 mt *Illex* squid

The application also states 2500 mt of *Loligo* squid will be purchased from U.S. fish processors from April 1, 1986, through March 31, 1987.

The operation also proposes directed fishing for both *Loligo* and *Illex* squid. The American partner designated is Stonavar Trading, Inc., Bristol, Rhode Island.

Italy

The Government of Italy has submitted permit applications for the fishery year beginning April 1, 1986, to engage in joint venture activities in the Northwest Atlantic Ocean fisheries. The applications request that Italian vessels receive transshipments of U.S. harvest squid in the following amounts: 1500 mt *Loligo* and 1500 mt *Illex*. Dogfish is also included in that request in the amount of 1000 mt.

The operation also proposes directed fishing for both *Loligo* and *Illex* squid, and commits to purchase 1000 mt of *Illex* squid from U.S. processors. The American partner designated is IST Corporation, Inc., Cape May, New Jersey.

[FR Doc. 86-2125 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Consultations With the Government of the People's Republic of China Concerning Category 659 pt. (Infants' Sets)

January 28, 1986.

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 February 3, 1986. 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 27, 1985, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of man-made fiber infants' sets in Category 659 pt. (only T.S.U.S.A. Nos. 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365), produced or manufactured in China and exported to the United States.

A summary market statement concerning this category follows this notice.

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).

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room

3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The People's Republic of China is obligated under the consultation provision of the bilateral agreement, to limit its exports to the United States of these products during the ninety-day period which began on December 27, 1985 and extends through March 26, 1986 to the following level:

Category	90-day level
659pt.	317,708 pounds.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period to the following:

Category	12-month level ¹
659pt.	1,001,981 pounds.

¹ March 27, 1986-March 26, 1987.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 659pt., exported during the ninety-day period at the level described above.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the Federal Register.

In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed to enter at the end of the restraint period, shall be charged to the level [described above].

defined in the agreement for the subsequent twelve-month period.

Ronald I. Levin.

Acting Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 659-I—Infant's Sets—Man-Made Fiber

December 1985.

Summary and Conclusions

U.S. imports of Category 659-I from China were 907,736 pounds (256,000 dozens) during the year ending October 1985. These compare with 507,519 pounds (119,000 dozens) imported a year earlier. Imports from China were 401,564 pounds in 1983 and 592,946 pounds in 1984.

This sharp and substantial increase in imports of low-valued infant's sets from China is disrupting the U.S. market for such sets.

U.S. Production and Market Share

U.S. production data are available only in dozens. Production was 3,825,000 dozens in 1982; 3,631,000 dozens in 1983; and 3,854,000 dozens in 1984. Although the domestic production was virtually unchanged from 1982 to 1984, the domestic producers lost market share from 69 percent in 1982 to 58 percent in 1984. According to industry reports on shipments, production declined in 1985. With the substantial import increase, the domestic producers share of the market dropped to about one-half in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 659-I increased from 1.7 million dozens (4.2 million pounds) in 1982 to 2.7 million dozens (9.0 million pounds) in 1984. Imports for the year ending October 1985 were 3.1 million dozens compared with 2.4 million a year earlier.

The ratio of imports to domestic production must be calculated from the data in dozens since production data in pounds are not available. The ratio increased from 44.5 percent in 1982 to 71.3 percent in 1984. It probably was near 100 percent in 1985.

Duty-Paid Values and U.S. Producer Prices

Approximately 72 percent of the Category 659-I imports from China enter under TSUSA No. 384.2646—Infant's sets of man-made fiber, wholly of woven construction, ornamented. The remainder is entered under TSUSA No. 384.8651—infant's sets of man-made fiber, wholly of knit construction, not ornamented. These garments are landed at duty-paid value well below the U.S.

producer prices for comparable garments.

Committee for the Implementation of Textile Agreements

January 28, 1986.

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; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended and extended, 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 to prohibit, effective on February 3, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 659pt.¹ produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on December 27, 1985 and extends through March 26, 1986, in excess of the following level of restraint:

Category	90 Day Level ²
659pt. ¹	317,708 pounds.

Textile products in Category 659pt.¹ which have been exported to the United States prior to the first day of the indicated ninety-day period shall not be subject to this directive.

Textile products in Category 659pt.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 this

¹ In Category 659, only T.S.U.S.A. numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359 and 384.9365.

² The level has not been adjusted to account for any imports exported after December 26, 1985.

action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-2203 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Negotiations During 1986; Correction

January 28, 1986.

In FR Doc. 86-236, beginning on page 667 in the issue of Tuesday, January 7, 1986, make the following correction:

On page 667, third column, first paragraph, add the following expiring bilateral agreements for which the U.S. Government anticipates holding negotiations during 1986. (The date in parenthesis indicates the date of expiration.)

Panama (November 30, 1986)

Yugoslavia (December 31, 1986)

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-2204 Filed 1-30-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Canadian Market Portfolio Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBT") has applied for designation as a contract market in the Canadian Market Portfolio Index. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 1, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity

Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBT Canadian Market Portfolio Index futures contract.

FOR FURTHER INFORMATION CONTACT:

Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7227.

Copies of the terms and conditions of the proposed CBT Canadian Market Portfolio Index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBT in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBT in its support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by April 1, 1986.

Issued in Washington, D.C., on January 27, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-2137 Filed 1-30-86; 8:45 am]

BILLING CODE 6351-01-M

Pacific Futures Exchange; Pacific Stock Exchange Technology Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Pacific Futures Exchange ("PFE") has applied for designation as a contract market in the Pacific Stock Exchange ("PSE") Technology Index. The Director of the Division of Economic Analysis of the Commodity Futures

Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 1, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the PFE PSE Technology Index futures contract.

FOR FURTHER INFORMATION CONTACT:

Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7303.

Copies of the terms and conditions of the proposed PFE PSE Technology Index futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the PFE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the PFE in support of its applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581, by April 1, 1986.

Issued in Washington, D.C. on January 27, 1986.

Paula A. Tosini

Director, Division of Economic Analysis.

[FR Doc. 86-2138 Filed 1-30-86; 8:45 am]

[BILLING CODE 6351-01-M]

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: Tuesday-Friday, 18-21 February 1986

Times of meeting: 0800-1700 hours

Places: Kwajalein Missile Range

Agenda: The Army Science Board Special Panel on Ballistic Missile Defense will meet to discuss instrumentation of Kwajalein Missile Range. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-2167 Filed 1-30-86; 8:45 am]

BILLING CODE 3710-06-M

Department of the Navy

Government-Owned Inventions; Availability for Licensing

The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for \$1.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. Request for copies of patent applications must include the patent application serial number. Claims are deleted from patent application copies sold to avoid premature disclosure.

For further information contact: Dr. A.C. Williams, Staff Patent Adviser, Office of the Chief of Naval Research (Code 16P3), Ballston Tower No. 1, Arlington, Virginia 22217-5000, Telephone No. 202-696-4005.

List of Patents

1. Patent 4,334,812: Adjustable Container Bulkhead Assembly. Filed August 3, 1979, patented June 15, 1982.
2. Patent 4,404,244: System for Rapid Repair of Damaged Airfield Runways. Filed October 27, 1982, patented September 13, 1983.
3. Patent 4,445,733: Grounding Ring for Double Shielded Cable. Filed June 17, 1982, patented May 1, 1984.
4. Patent 4,448,000: High Temperature Ultra-High Vacuum Infrared Window Seal. Filed April 27, 1982, patented May 15, 1984.
5. Patent 4,449,105: Passive Maser using Timesharing for Control of the Cavity and Control of the Oscillator on the Line of Simulated Emission. Filed May 19, 1981, patented May 15, 1984.
6. Patent 4,452,533: External Cavity Diode Laser Sensor. Filed July 22, 1981, patented June 5, 1984.
7. Patent 4,452,998: Fluorinated Diacrylic Esters. Filed August 6, 1982, patented June 5, 1984.
8. Patent 4,453,238: Apparatus and Method for Determining the Phase Sensitivity of Hydrophones. Filed April 15, 1982, patented June 5, 1984.
9. Patent 4,456,086: Integrated Wheelchair and Ambulator. Filed August 1, 1979, patented June 26, 1984.
10. Patent 4,456,583: Preparation of Simple Nitronium Salts. Filed June 29, 1983, patented June 26, 1984.
11. Patent 4,456,889: Dual-Gate Mesefet Variable Grain Constant Output Power Amplifier. Filed June 4, 1981, patented June 26, 1984.
12. Patent 4,459,700: Adaptive MTI System. Filed May 23, 1975, patented July 10, 1984.
13. Patent 4,459,935: Phantom Computer Gating System. Filed January 29, 1982, patented July 17, 1984.
14. Patent 4,462,256: Lightweight, Broadband Rayleigh Wave Transducer. Filed December 27, 1982, patented July 31, 1984.
15. Patent 4,462,330: Current Stabilized Underwater Platform. Filed July 30, 1979, patented July 31, 1984.
16. Patent 4,463,264: Lightweight Neutron Detector. Filed June 7, 1982, patented July 31, 1984.
17. Patent 4,463,496: Deep Submergence Vehicle (DSV) Lightweight Cable Cutter. Filed November 1, 1982, patented August 7, 1984.
18. Patent 4,463,678: Hybrid Shaped-Charge/Kinetic/Energy Penetrator. Filed April 1, 1980, patented August 7, 1984.
19. Patent 4,464,065: Fast Granular Superconducting Bolometer. Filed August 9, 1982, patented August 7, 1984.
20. Patent 4,464,739: Sampled Towed Array Telemetry. Filed July 26, 1982, patented August 7, 1984.
21. Patent 4,464,768: Adaptive Preprocessing System. Filed May 28, 1975, patented August 7, 1984.
22. Patent 4,466,003: Compact Wideband Multiple Conductor Monopole Antenna. Filed February 9, 1982, patented August 14, 1984.
23. Patent 4,468,635: Transmission Line Biased Coherent Array of Josephson Oscillators. Filed April 29, 1981, patented August 28, 1984.
24. Patent 4,468,760: Directional Line-Hydrophone Array Calibrator. Filed June 29, 1982, patented August 28, 1984.
25. Patent 4,468,794: Digital Coherent Detector. Filed January 11, 1984, patented August 28, 1984.
26. Patent 4,468,851: Process for Making a Heterojunction Source Drain Insulated Gate Field-Effect Transistors Utilizing Diffusion to Form the Lattice. Filed December 14, 1981, patented September 4, 1984.
27. Patent 4,469,399: Method of Making an Undersea, High Pressure Bulkhead Penetrator for use with Fiber Optic Cables. Filed December 30, 1981, patented September 4, 1984.
28. Patent 4,469,443: Atmospheric Transmissionmeter. Filed June 1, 1982, patented September 4, 1984.
29. Patent 4,469,536: Alloys and Method of Making. Filed November 10, 1982, patented September 4, 1984.
30. Patent 4,469,977: Superlattice Ultrasonic Wave Generator. Filed October 19, 1982, patented September 4, 1984.
31. Patent 4,470,022: Pseudo Atmospheric Noise Generator having Variable Amplitude Probability Distributions and Discharge Fine Structure. Filed June 4, 1982, patented September 4, 1984.
32. Patent 4,470,023: Coherent array of Josephson Oscillators with External Bias Leads. Filed April 29, 1981, patented September 4, 1984.
33. Patent 4,470,562: Polaris Guidance System. Filed October 22, 1965, patented September 11, 1984.
34. Patent 4,471,219: Amplitude Mode Magnetic Sensors. Filed March 8, 1982, patented September 11, 1984.
35. Patent 4,471,340: Analog to Digital Converter. Filed June 2, 1981, patented September 11, 1984.
36. Patent 4,471,359: Dual Band, Low Sidelobe, High Efficiency Mirror Antenna. Filed June 15, 1982, patented September 11, 1984.
37. Patent 4,472,719: ECM Multiple-Target Retrodirective Antenna. Filed January 15, 1973, patented September 18, 1984.
38. Patent 4,473,896: Tactical Expendable Device. Filed May 19, 1982, patented September 25, 1984.
39. Patent 4,475,792: High Resolution Diffraction Grating. Filed July 27, 1982, patented October 9, 1984.
40. Patent 4,475,816: Method for Determining in Situ the Absorption Coefficient of Particulate Media using Pulsed Laser Technique. Filed February 15, 1980, patented October 9, 1984.
41. Patent 4,476,285: Rubber Modified Epoxy Adhesive. Filed March 2, 1983, patented October 9, 1984.
42. Patent 4,476,549: Calibration Method for Acoustic Scattering Measurements using a Spherical Target. Filed March 31, 1982, patented October 9, 1984.
43. Patent 4,477,643: Fluorinated Polyurethanes. Filed April 20, 1984, patented October 16, 1984.
44. Patent 4,477,781: Combined Microwave Parallel Amplifier-RF Attenuator Modulator. Filed February 17, 1983, patented October 16, 1984.
45. Patent 4,478,890: Low Temperature Deposition of Nickel Films. Filed September 12, 1983, patented October 23, 1984.
46. Patent 4,480,323: Remote Self-Contained Undersea Monitor. Filed June 7, 1982, patented October 30, 1984.
47. Patent 4,481,421: Lithium-6 Coated Wire Mesh Neutron Detector. Filed May 24, 1982, patented November 6, 1984.
48. Patent 4,481,475: Betatron Accelerator having High Ratio of Budker Parameter to Relativistic Factor. Filed August 5, 1982, patented November 6, 1982.
49. Patent 4,481,485: Optically Triggered Transferred-Electron Device Micro-Wave Burst and Single Pulse Generators. Filed February 3, 1982, patented November 6, 1984.
50. Patent 4,482,205: Temperature-Insensitive Optical Fibers. Filed October 18, 1982, patented November 13, 1984.
51. Patent 4,482,702: FL Polyesters. Filed December 20, 1983, patented November 3, 1984.
52. Patent 4,483,582: Wavelength Multiplexer-Demultiplexer. Filed April 23, 1980, patented November 20, 1984.
53. Patent 4,484,618: Thermochemical Energy Transport Using a Hydrogen Rich Working Fluid. Filed May 13, 1982, patented November 27, 1984.
54. Patent 4,486,657: Phase-Lock Fiber Optic Interferometer. Filed May 27, 1982, patented December 4, 1984.
55. Patent 4,486,683: Piezoelectric Transducer using Electrically Poled Nylon II. Filed October 26, 1981, patented December 4, 1984.
56. Patent 4,487,293: Elevator/Hatch Controller Platform Leveling Logic with Safety Features. Filed March 24, 1983, patented December 11, 1984.

57. Patent 4,488,271: Deep Ocean Wide Band Acoustic Baffle. Filed June 20, 1983, patented December 11, 1984.
58. Patent 4,488,691: Torso Restraint System. Filed December 27, 1982, patented December 18, 1984.
59. Patent 3,489,049: Solid State Hydrogen Pumping and Storage Material. Filed June 9, 1982, patented December 18, 1984.
60. Patent 4,489,274: Rotating Squid Magnetometers and Gradiometers. Filed December 10, 1980, patented December 18, 1984.
61. Patent 4,489,320: Interference Suppressor for Radar MTI. Filed August 7, 1981, patented December 18, 1984.
62. Patent 4,489,392: Orthogonalizer for Inphase and Quadrature Digital Data. Filed June 9, 1982, patented December 18, 1984.
63. Patent 4,490,016: Polarimetric Image Recorder. Filed July 6, 1982, patented December 25, 1984.
64. Patent 4,491,413: Fiber Optic Gyroscope with Alternating Output Signal. Filed April 22, 1982, patented January 1, 1985.
65. Patent 4,491,765: Quasioptical Gyrokystron. Filed September 2, 1982, patented January 1, 1985.
66. Patent 4,492,866: Method for Predicting the Performance of Cathode Materials. patented January 8, 1985.
67. Patent 4,492,875: Wave Powered Buoy Generator. Filed December 2, 1982, patented January 8, 1985.
68. Patent 4,492,960: Switching Mixer. Filed January 18, 1982, patented January 8, 1985.
69. Patent 4,493,047: Real Time Data Smoother and Significant Values Selection. Filed April 5, 1982, patented January 8, 1985.
70. Patent 4,493,114: Optical Non-Line-Of-Sight Covert, Secure High Data Communication System. Filed May 2, 1985, patented January 8, 1985.
71. Patent 4,493,664: Sonobuoy Float Inflation and Depth Selection Initiators. Filed May 3, 1982, patented January 15, 1985.
72. Patent 4,494,039: Gyrotron Traveling-Wave Device including Quarter Wavelength Anti-Reflective Dielectric Layer to Enhance Microwave Absorption. Filed October 19, 1982, patented January 15, 1985.
73. Patent 4,494,117: Dual Sense Circularly Polarized Helical Antenna. Filed July 19, 1982, patented January 15, 1985.
74. Patent 4,494,211: Balanced System for Ranging and Synchronization between Satellite Pairs. Filed November 24, 1982, patented January 15, 1985.
75. Patent 4,495,256: Dual Electrochemical System. Filed January 26, 1984, patented January 22, 1985.
76. Patent 4,495,411: Fiber Optic Sensors Operating AT DC. Filed October 27, 1982, patented January 22, 1985.
77. Patent 4,496,876: Frequency Spreading Coupler. Filed September 23, 1982, patented January 29, 1985.
78. Patent 4,498,491: Thermo-Electric Valve. Filed June 8, 1983, patented February 12, 1985.
79. Patent 4,499,481: Heterojunction Schottky Gate Mesfet with Lower Channel Ridge Barrier. Filed September 14, 1983, patented February 12, 1985.
80. Patent 4,503,403: Optical Injection Locking of Solid-State Oscillators by Frequency-Multiplexed Injection-Locked, Laser Diodes. Filed September 28, 1983, patented March 5, 1985.
81. Patent 4,503,541: Controlled-Linewidth Laser Source. Filed November 10, 1982, patented March 5, 1985.
82. Patent 4,504,835: Low Sidelobe, High Efficiency Mirror Antenna with Twist Reflector. Filed June 15, 1982, patented March 12, 1985.
83. Patent 4,505,544: Spatial Frequency Multiplexed Coherent Optical Processor for Calculating Generalized Moments. Filed June 10, 1982, patented March 19, 1985.
84. Patent 4,506,234: Amplitude and Phase Modulation in Fin-Lines by Electrical Tuning. Filed June 17, 1983, patented March 19, 1985.
85. Patent 4,506,686: Physiochemically Controlled Scour Jet Array System. Filed February 29, 1984, patented March 26, 1985.
86. Patent 4,508,055: Device for Cryogenically Fabricating Source Material for Plasma X-Ray Lasers. Filed June 3, 1983, patented April 2, 1985.
87. Patent 4,508,294: Air Bag Restraint System. Filed May 2, 1983, patented April 2, 1985.
88. Patent 4,508,590: Method for the Deposition of High-Quality Crystal Epitaxial Films of Iron. Filed September 16, 1983, patented April 2, 1985.
89. Patent 4,509,051: Phase-Coded Pulse Expander-Compressor. Filed September 20, 1982, patented April 2, 1985.
90. Patent 4,509,131: Geomagnetic Velocimeter. Filed June 1, 1982, patented April 2, 1985.
91. Patent 4,509,522: Infrared Optical Measurement of Blood Gas Concentrations and Fiber Optic Catheter. Filed December 15, 1981, patented April 9, 1985.
92. Patent 4,512,197: Apparatus for Generating a Focusable and Scannable Ultrasonic Beam for Non-Destructive Examination. Filed September 1, 1983, patented April 23, 1985.
93. Patent 4,512,660: Picosecond Cars Probe using the Picosecond Continuum. Filed April 14, 1983, patented April 23, 1985.
94. Patent 4,512,825: Recovery of Fragile Layers Produced on Substrates by Chemical Vapor Deposition. Filed April 12, 1983, patented April 23, 1985.
95. Patent 4,513,087: Reversible Optical Waveguide Vapor Sensor. Filed January 31, 1983, patented April 23, 1985.
96. Patent 4,513,208: A biological Sensor for the Detection of Toxicant. Filed October 4, 1984, patented April 23, 1985.
97. Patent 4,513,280: Method and Apparatus for the Detection of Toxicants. Filed October 4, 1984, patented April 23, 1985.
98. Patent 4,513,289: P1 Polyphase Code Expander-Compressor. Filed May 11, 1982, patented April 23, 1985.
99. Patent 4,513,308: P-N junction Controlled Field Emitter Array Cathode. Filed September 23, 1982, patented April 23, 1985.
100. Patent 4,518,915: Test Device for Expendable Bathymograph Set (XBT). Filed February 2, 1983, patented May 21, 1985.
101. Patent 4,521,779: Pulse Compression System. Filed April 24, 1980, patented June 4, 1985.
102. Patent 4,521,887: W Shaped Diffused Stripe GAAS/ALGAAS Laser. Filed September 7, 1982, patented June 4, 1985.
103. Patent 4,522,495: Optical Sensing Devices. Filed June 13, 1983, patented June 11, 1985.
104. Patent 4,523,469: Laser Generation of Ultrasonic Waveform Reconstructions. Filed January 19, 1983, patented June 18, 1985.
105. Patent 4,524,322: Fiber Optic System for Measuring Electric Fields. Filed November 18, 1982, patented June 18, 1985.
106. Patent 4,524,362: Phase Coded Pulse Expander-Compressor. Filed May 11, 1982, patented June 18, 1985.
107. Patent 4,524,363: P2 Polyphase Code Expander-Compressor. Filed May 11, 1982, patented June 18, 1985.
108. Patent 4,524,463: P2 Polyphase Code Expander-Compressor. Filed May 11, 1982, patented June 18, 1985.
109. Patent 4,525,013: Demountable Coaxial Electrical Connector for In-Line Amplifiers. Filed January 17, 1984, patented June 25, 1985.
110. Patent 4,534,338: Servo Operated Anti-G Suit Pressurization System. Filed May 24, 1984, patented August 13, 1985.
111. Patent 4,534,648: A Cryo Sensor Block Suspension. Filed November 7, 1983, patented August 13, 1985.

List of Patent Applications

1. Patent application 459,073: Laser Generation of Ultrasonic Waveform Reconstructions. Filed January 19, 1983.
2. Patent application 491,941: A Transistor Oscillator/Doubler. Filed May 5, 1983.
3. Patent application 519,421: Aircraft Barricade. Filed August 1, 1983.
4. Patent application 528,710: Computer-Aided Process for generating Camera-Ready Graphical Artwork. Filed September 1, 1983.
5. Patent application 531,097: Deployment Sequence Mode Selection System for Aircraft Ejection Seat. Filed September 12, 1983.
6. Patent application 548,047: Multi-Directional Straddle-Lift Carrier. Filed November 2, 1983.
7. Patent application 548,468: Loop Radiating Elements. Filed November 3, 1983.
8. Patent application 562,336: Three Dimensional Orthogonal Delay Line Bootlace Lens Antenna. Filed December 16, 1983.
9. Patent application 575,425: A New Free Electron Laser using a Relativistic Beam with Spiralling Electron. Filed January 31, 1984.
10. Patent application 576,229: Dynamic Pressure Test Unit-Ratio Method. Filed February 2, 1984.
11. Patent application 577,437: Improved Ship Deck Lifeline. Filed February 6, 1984.
12. Patent application 581,168: Matrix-Matrix Multiplication using an Electrooptical Systolic/Engagement Array Processing Architecture. Filed February 17, 1984.
13. Patent application 582,238: Variable Length and Sensor Spacing Thermistor Array. Filed February 22, 1984.
14. Patent application 582,412: Method for Determining Mesoscale Dynamic Topography. Filed February 22, 1984.
15. Patent application 596,786: Moisture Absorbing Anti-Arcing Coating and Method for Applying Same. Filed April 4, 1984.
16. Patent application 597,966: In-Situ Annular Face. Filed April 9, 1984.
17. Patent application 600,876: Composition and Method for Cleaning Embedded Soil from Surfaces having Low Gloss Coatings. Filed April 16, 1984.
18. Patent application 605,317: (VINILOXY) CHLOROCYCLOTRIPHOSPHAZENES. Filed April 30, 1984.
19. Patent application 607,477: Connector/Nitinol Contact Force Device. Filed May 7, 1984.
20. Patent application 609,940: Process for Preparation of Cross-Linked Poly (tri-

n-butyltin) Methacrylate with Simultaneous Particle Size Reduction. Filed June 18, 1984.

21. Patent application 611,811: Nonlinear Technique for High-Resolution Data Processing. Filed May 18, 1984.
22. Patent application 612,528: Phased Locked Array Laser System. Filed May 21, 1984.
23. Patent application 617,049: Precise Bearing Support Ditherer. Filed June 4, 1984.
24. Patent application 617,659: Bragg Cell Spectrum Analyzer. Filed June 5, 1984.
25. Patent application 619,436: A Broadband Matching Network. Filed June 11, 1984.
26. Patent application 620,646: A Low Perturbation Electron Injector for Cyclic Accelerators. Filed June 14, 1984.
27. Patent application 622,368: Programmable Multichannel Sonobouy Transmitter. Filed June 20, 1985.
28. Patent application 622,369: Programmable Multichannel Sonobouy Transmitter. Filed June 20, 1984.
29. Patent application 622,370: Electronic Module Insertion and Retraction Mechanism. Filed June 20, 1984.
30. Patent application 626,510: 1-FLUORO-1,1,5-TRINITRO-3-OXA-5-AZAHEXANE and Method of Preparation. Filed June 29, 1984.
31. Patent application 627,307: Airspeed Sensing Pressure Valve System. Filed July 2, 1984.
32. Patent application 627,936: Padlock Shackle. Filed July 5, 1984.
33. Patent application 627,939: An Automatic Pattern Recognition Apparatus. Filed July 5, 1984.
34. Patent application 628,093: A Scanning Alarm Electronic Processor. Filed July 5, 1985.
35. Patent application 630,049: Quasi-Optical Harmonic Gyrotron and Gyrokystron. Filed July 12, 1984.
36. Patent application 632,983: Fuel Efficient Propulsor for Motor Boats. Filed July 20, 1984.
37. Patent application 635,693: Optical Fibers with Reduced Pressure Sensitivity to High Frequency Acoustic Field. Filed July 30, 1984.
38. Patent application 635,866: Adhesive Joint Formation under Field Conditions. Filed July 30, 1984.
39. Patent application 636,038: Battery Charger. Filed July 30, 1984.
40. Patent application 637,238: Improved Arresting and Recovery System for Test Missiles. Filed August 2, 1984.
41. Patent application 640,178: A Coaxial Probe for Measuring the Current

Density Profile of Intense Electron Beams. Filed June 19, 1984.

42. Patent application 643,216: Improved Real-Time Ultra-High Resolution Image Projection Display using Laser-Addressed Liquid Crystal Light Valve. Filed October 29, 1984.
43. Patent application 643,327: Method of Preparing Single Crystalline Cubic Silicon Carbide Layers. Filed August 22, 1984.
44. Patent application 645,888: Laser Vibrometer. Filed August 31, 1984.
45. Patent application 647,777: A Method for Automatic Water Mass Classification. Filed September 6, 1984.
46. Patent application 651,399: Improved Operation of Transversely Exited N₂O Lasers. Filed September 17, 1984.
47. Patent application 654,926: Triple Matrix Product Optical Processors using Combined Time-and-Space Integration. Filed September 27, 1984.
48. Patent application 656,814: Visible and Ultraviolet Lasers Based on Excimer Transitions in the Homonuclear Halogens. Filed October 1, 1984.
49. Patent application 657,115: Wear Improvement in Titanium Alloys by Ion Implantation. Filed October 3, 1984.
50. Patent application 657,641: Improvements in Linked-Spar Motion-Compensated Lifting System. Filed October 4, 1984.
51. Patent application 660,349: Remote Optical Crack Sensing System. Filed October 12, 1984.
52. Patent application 661,838: IREB Converter to AC Pulses. Filed October 17, 1984.
53. Patent application 662,122: Pivotal Support Rescue Hoist. Filed October 18, 1984.
54. Patent application 662,933: Hot Rolling of Ceramics by the use of Self Propagating Synthesis. Filed September 17, 1984.
55. Patent application 665,866: Thrust Vectoring Apparatus for Maneuvering Missile in Flight. Filed October 29, 1984.
56. Patent application 666,597: Ion Beam Neutralizer. Filed October 31, 1984.
57. Patent application 667,685: Passive Arm Retention Curtain. November 2, 1984.
58. Patent application 670,083: Coherent Receiver Phase and Amplitude Alignment Circuit. Filed November 13, 1984.
59. Patent application 676,044: Optical 3-D Signature Device for Detecting Chemical Agents. Filed November 29, 1984.
60. Patent application 677,136: Parallel Local Interface Bus. Filed November 29, 1984.

61. Patent application 684,207: High Switching Speed Electrically Tuned Microwave Magnetic Resonance Devices. Filed December 20, 1984.
62. Patent application 684,529: Transversely Reinforced Piezoelectric Composites. Filed December 21, 1984.
63. Patent application 690,015: Processable and Stable Conductive Polymers. Filed January 9, 1985.
64. Patent application 695,327: A Collective Interaction Klystron. Filed January 28, 1985.
65. Patent application 698,199: Confretization of High Level Radioactive Source in Marine Sediment. Filed February 4, 1985.
66. Patent application 698,476: Detection of Neutral Species in Complex Matrices by Sims.
67. Patent application 700,246: BN Coating of Ceramic Fibers for Ceramic Fiber Composites. Filed February 11, 1985.
68. Patent application 702,091: Expedient Runway Surfacing with Post Tensioning System for Expeditionary Airfields. Filed February 11, 1985.
69. Patent application 704,124: Low Profile Fastener. Filed February 22, 1985.
70. Patent application 704,454: High Accuracy Digital Acousto-Optic Matrix Computer. Filed February 1985.
71. Patent application 705,760: Opacity Control Technique for Jet Engine Test Cells. Filed February 25, 1985.
72. Patent application 706,811: Polyethylene Imine-Metal Salt Solid Electrolyte. Filed March 1985.
73. Patent application 709,251: Optical Waveguide Sensor for Methane Gas.
74. Patent application 709,476: Self-Aligned GAAS Fet with Low 1/F Noise. Filed March 1985.
75. Patent application 714,411: Magnetically-Localizable Polymerized Lipid Vesicles and Method of Disrupting Same. Filed March 21, 1985.
76. Patent application 714,666: Method of Reducing Impurity and Anti-Site Defects in Semiconductor Crystal Materials, and Device and Apparatus Respectively Produced from and Utilizing Same. Filed March 22, 1985.
77. Patent application 714,775: Dual Drain Mosfet Detector for Crosstie Memory Systems. Filed March 22, 1985.
78. Patent application 714,779: Method for Producing High Quality Germanium Nitride Interfaces for Germanium Semiconductors and Devices Produces thereby. Filed March 22, 1985.
79. Patent application 715,786: Analog Frequency Modulated Laser using Magnetostriction. Filed March 1985.
80. Patent application 715,992: Constant Rise AGC Device. Filed March 25, 1985.
81. Patent application 717,365: Extended Precision in Video Bandwidth Analog to Digital Converter using Optical Techniques. Filed March 28, 1985.
82. Patent application 718,399: Airboc Chaff Deployment System. Filed April 21, 1985.
83. Patent application 718,762: Marginal Terrain Straddle-Lift Container Handler.
84. Patent application 719,403: Atomically Mixed Alloy Coated Cathodes. Filed April 4, 1985.
85. Patent application 722,579: Rusty Bolt Intermodulation Interference Reducer. Filed April 12, 1985.
86. Patent application 722,580: Techniques for the Reduction of Fading in Interferometers. Filed April 12, 1985.
87. Patent application 725,710: Sump Arrangement for Snorkel Intake. Filed April 22, 1985.
88. Patent application 726,563: Chemical Bonding Agent for the Suppression of "Rusty Bolt" Intermodulation Interference. Filed April 23, 1985.
89. Patent application 729,725: Low Temperature Inflator Apparatus. Filed May 20, 1985.
90. Patent application 729,761: High Current Fiber Brush Collector and Method for Making Same. Filed May 2, 1985.
91. Patent application 729,849: Passivation of Steel with Aqueous Amine Solutions Preparatory to Application of Non-Aqueous Protective Coatings. Filed April 1985.
92. Patent application 731,700: Original Method of Drydocking Ships. Filed May 8, 1985.
93. Patent application 732,330: High Output Programmable Signal Current Source for Low Output Impedance Application. Filed May 10, 1985.
94. Patent application 734,986: Time resolved Extended X-Ray Absorption Fine Structure Spectrometer. Filed May 17, 1985.
95. Patent application 737,753: Gas Recirculator for Acyclic Machines. Filed May 28, 1985.
96. Patent application 739,354: Conductive Heterocyclic Ladder Polymers. Filed May 30, 1985.
97. Patent application 739,355: Moldable Electrically Conductive Polymer Compositions. Filed May 30, 1985.
98. Patent application 740,115: Suspension Method of Impregnating Active Material into Composite Nickel Plaque. Filed May 29, 1985.
99. Patent application 741,784: Liquid Phase Epitaxy (LPE) of silicon Carbide. Filed June 6, 1985.
100. Patent application 744,084: Expandable Bathymeterograph for Measuring Light Attenuation & Temperature below the Ocean Surface. Filed June 12, 1985.
101. Patent application 745,739: Nozzle for Self-Contained Cutting Torches. Filed June 17, 1985.
102. Patent application 746,704: Optoelectronic Integrated Circuit Multiplexer. Filed June 20, 1985.
103. Patent application 747,220: Variable Temperature Trap. Filed June 21, 1985.
104. Patent application 748,094: Latch for Detachably Securing Electronic Cards Along Orthogonal Loading Axes. Filed June 24, 1985.
105. Patent application 748,871: Method of Preparing Tetrahydrofuran. Filed June 26, 1985.
106. Patent application 749,238: A TIW Diffusion Barrier for AuZn OHMIC Contacts to P-Type InP. Filed June 27, 1985.
107. Patent application 749,340: Fiber Optic as an Angular Sensor. Filed June 27, 1985.
108. Patent application 749,681: Enhancement of Specific Antibody Production with Anti-IGD Antibodies. Filed June 27, 1985.
109. Patent application 749,705: Epoxy Phthalonitrile. Filed June 28, 1985.
110. Patent application 750,218: A Method for Melt-Coating a Surface. Filed July 1, 1985.
111. Patent application 750,630: An Integrated Wavelength Demultiplexer. Filed July 1, 1985.
112. Patent application 751,346: Oil Content Monitor/Control System and Method. Filed July 2, 1985.
113. Patent application 751,347: An Oil/Water Disperser Device for use in an Oil Content Monitor/Control System. Filed July 2, 1985.
114. Patent application 752,867: Generation of a Modulated Irb with a Frequency Tunable by a Magnetic Field. Filed July 8, 1985.
115. Patent application 755,757: Microwave Recursive Filter. Filed July 17, 1985.
116. Patent application 761,648: Multiple Channel Fast Orthogonalization Network. Filed August 2, 1985.
117. Patent application 762,365: Multilayer Superconducting Shield and Method of Manufacturing Same. Filed August 5, 1985.
118. Patent application 768,004: Mixed Semiconductor Film Device for Monitoring Same. Filed August 21, 1985.

Dated: January 24, 1986.

William F. Roos, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve,
Federal Register Liaison Officer.
[FR Doc. 86-2135 Filed 1-30-86; 8:45 am]
BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee, Anti-Submarine Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Anti-Submarine Warfare Task Force will meet February 19-20, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy anti-submarine warfare long term strategies. The entire agenda for the meeting will consist of discussions of key issues related to anti-submarine warfare and related intelligence. These matters constitute classified information that is specially authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: January 28, 1986.

William F. Roos, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve,
Federal Register Liaison Officer.
[FR Doc. 86-2127 Filed 1-30-86; 8:45 am]
BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, National Energy Security Policy Task Force; Closed Meeting; Correction

Notice was given January 7, 1986, at 51 FR 673 of a meeting of the Chief of Naval Operations Executive Panel Advisory Committee National Energy Security Policy Task Force on January 23-24, 1986, from 9 a.m. to 5 p.m. each day. The dates and times for the meeting

have been changed to April 3-4, 1986, from 9 a.m. to 5 p.m. All other information in the previous notice remains effective.

For further information on this meeting contact Lieutenant Paul G. Butler, Executive Secretary of the Chief of Naval Operations Executive Panel Advisory Committee, telephone (703) 756-1205.

Dated: January 28, 1986.

William F. Roos, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve,
Federal Register Liaison Officer.
[FR Doc. 86-2128 Filed 1-30-86; 8:45 am]
BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee, Personal Excellence and National Security Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Personal Excellence and National Security Task Force will meet February 21, 1986, from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to examine Navy personnel policies and programs. The entire agenda for the meeting will consist of discussions of key issues regarding future U.S. and Soviet naval manpower requirements, the national security implications of the dwindling quantity of quality youth in the U.S. and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: January 28, 1986.

William F. Roos, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve,
Federal Register Liaison Officer.
[FR Doc. 86-2129 Filed 1-30-86; 8:45 am]
BILLING CODE 3810-AE-M

DEFENSE LOGISTICS AGENCY

Cooperative Agreements

AGENCY: Defense Logistics Agency.

ACTION: Cooperative Agreements; Proposed Revised Procedure.

SUMMARY: This proposed reviews procedure implements Chapter 142, Title 10, U.S.C., as amended, which authorizes the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing Cooperative Agreements to support procurement technical assistance programs established by state and local governments and private non-profit organizations. Subpart III of this issuance establishes the administrative procedures proposed to be implemented by the Defense Logistics Agency (DLA) to enter into such agreements for this purpose. Comments will be accepted until March 3, 1986.

DATE: The proposed effective date is March 10, 1986.

FOR FURTHER INFORMATION CONTACT: John McCallum, Program Officer, Office of Small & Disadvantaged Business Utilization (DLA-US), Defense Logistics Agency, Alexandria, VA 22304-6100, Telephone (202) 274-6471.

I. Background Information

The Department of Defense (DoD) has developed programs designed to expand the industrial base and increase competition for its requirements for goods and services, thereby reducing the cost of maintaining a strong national security. Its efforts to increase competition among the private sector have been supplemented by many state and local governments and other entities where their interest in improving the business climate and economic development in their communities is compatible with these DoD objectives. To assist in furthering this mutual interest, a Cooperative Agreement Program has been established by which the DoD can share the cost of supporting existing procurement technical assistance programs being conducted by state and local governments and private non-profit organizations and encourage other state and local governments and private non-profit organizations to consider establishing similar programs in their communities.

The Fiscal Year (FY) 1985 DoD Authorization Act, Pub. L. 98-525, amended Title 10, U.S.C., by adding a Chapter 142 which authorized the Secretary of Defense, acting through the Director, Defense Logistics Agency

(DLA), to enter into cooperative agreements with state and local governments (hereinafter referred to as eligible entities as defined in section 3 of this regulation) to establish and conduct a procurement technical assistance program during FY 85. Title 10, U.S.C. as amended provides for continuation of the program during FY 86.

The Congress has authorized a total of \$5 million to support the program during FY 86. Of this total, \$3,000,000 is to be divided between existing programs and new starts on a 75% and 25% basis, with the remaining \$2 million being available for either existing programs or new starts. The Act further anticipates a continuation of funding for the program through FY87. Each of the nine Defense Contract Administration Service Regions (DCASRs) within DLA will be authorized to award approximately \$555,000 of the \$5 million authorized for FY 86 as its share of program costs to applicants within the geographic area under their cognizance to support existing programs and new starts. In cases where the area being or to be serviced by the eligible entity encompasses more than one DCASR's area of geographic cognizance, eligible entities are to submit their proposals to the one DCASR having cognizance over the preponderant part of the area being or to be serviced. Only one proposal will be accepted from a single eligible entity. The addresses and geographical areas under the cognizance of each of the DCASRs, together with the name of the Associate Director for Small Business who is designated the Cooperative Agreement Program Manager, follows:

State or area	DCASR	Associate Director for Small Business
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico.	DCASR Atlanta, 805 Walker Street, Marietta, GA 30060-2789.	Mr. Harold Watson, Telephone (404) 429-6195.
Connecticut, Maine, New Hampshire, Massachusetts, New York (all counties except Bronx, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester), Rhode Island, Vermont.	DCASR Boston, 495 Summer Street, Boston, MA 02210-2184.	Mr. Edward Fitzgerald, Telephone (617) 451-4318.
Illinois (Northern Area), Indiana, Wisconsin.	DCASR Chicago, O'Hara Int'l Airport, P.O. Box 86475, Chicago, IL 60666-0475.	Mr. James Kleckner, Telephone (312) 694-6020.

State or area	DCASR	Associate Director for Small Business
Kentucky, Michigan, Ohio, Pennsylvania (Crawford, Erie, and Mercer Counties only), Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	DCASR Cleveland, Federal Office Bldg., 1240 East 9th Street, Room 1861, Cleveland, OH 44199-2063.	Ms. Wilma Combs, Telephone (216) 522-5122.
Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.	DCASR Dallas, 1200 Main Street, Dallas, TX 75202-4399.	Mr. Ken Strack, Telephone (214) 670-9205.
New Jersey (Northern 12 Counties), New York (Bronx, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester Counties only).	DCASR Los Angeles, 11099 South LaCienega Blvd., Los Angeles, CA 90045-6197.	Mr. S. L. Ganalon, Telephone (213) 643-0620.
Delaware, District of Columbia, Maryland, New Jersey (Except for Northern 12 Counties), Pennsylvania (All Counties except Crawford, Erie and Mercer), Virginia, West Virginia.	DCASR New York, 201 Varick St., Room 1061 New York, NY 10014-4811.	Mr. John Mulreany, Telephone (212) 807-3050.
Colorado, Illinois (Southern Half), Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	DCASR Philadelphia, 2800 South 20th St., Philadelphia, PA 19101-7478.	Mr. Roger Rhyner, Telephone (215) 952-4006.
	DCASR St. Louis, 1136 Washington Ave., St. Louis, MO 63101-1194.	Mr. Thomas Moore, Telephone (314) 263-8617.

Additional Limitations placed on these funds follow:

(a) DoD cost sharing shall not exceed 50% of the total cost of a single program, excluding any Federal funds, except that the DoD share may be increased to no more than 75% for any existing program or new start that qualifies as a distressed entity. In no event, shall the DoD share of the total program cost exceed \$150,000.

(b) Eligible entities are not to subcontract more than 10% of their total costs for private consulting services to support the program.

The DoD presently provides procurement and technical assistance to business firms through its network of Small Business Specialists located in industrial centers around the country. The Associate Directors of Small Business located in these industrial centers at the DCASRs will be available to provide eligible entities such assistance as necessary to explain and interpret the solicitation requirements when issued and to provide general guidance in preparing proposals.

Procurement technical assistance given to clients for marketing their goods and services to other Federal Agencies and/or state and local governments will not be considered when evaluating proposals. However, eligible entities are encouraged to consider supplementing their DoD program to include those marketing opportunities for business firms located in the area being or to be serviced.

The purpose of this proposed revised regulation is to make available to all eligible entities the prerequisite requirements and policies which govern the award of cooperative agreements by the DLA. This regulation is necessary to establish a permanent regulation which governs the award and administration of cooperative agreements.

Although this regulation will affect all eligible entities desiring to enter into a cooperative agreement with DLA, the DLA has determined that this rule does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. This determination is based on the fact that this proposed Cooperative Agreement Regulation implements policies already published by the Office of Management and Budget pursuant to Chapter 63, Title 31, U.S.C., Using Procurement Contracts and Grant and Cooperative Agreements. In addition, DLA Cooperative Agreements will be entered into pursuant to the authorities and restrictions in the annual DoD Authorization and Appropriation Acts.

II. Other Information

The language contained in the current Cooperative Agreement Regulation limited the period of coverage to the FY 85 Program in that it addressed the FY 85 Authorization Act requirements in specific terms, including the exact dollar amounts of funding applicable to the Program. This proposed revision to regulation will provide general guidance for cooperative agreements entered into by the DLA and will become a permanent document for the duration of the program.

DLA has determined that the proposed regulation does not involve substantial issues of fact or law and the regulation is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. Therefore, public hearings were not conducted.

Since this is DLA's permanent regulation covering cooperative agreements pursuant to 31 U.S.C. 6301 et seq. using Procurement Contracts and

Grant and Cooperative Agreements, additional comments are invited on the regulation and are to be submitted to the Defense Logistics Agency, ATTN: DLA-US, Cameron Station, Alexandria, VA 22304-1600. All comments received by 3 March 1986 will be evaluated to determine if any revisions should be made to Subpart III.

Issued in Alexandria, VA, on 24 January 1986.

For the Defense Logistics Agency,
Ray W. Dellas,
Staff Director, Office of Small and
Disadvantaged Business Utilization.

III. Proposed Revision to DLA Regulation—Cooperative Agreements

1. Scope

(a) This regulation implements Chapter 142 of Title 10, U.S.C., as amended, and establishes requirements for the award and administration of Cost Sharing Cooperative Agreements entered into between the Defense Logistics Agency (DLA) and eligible entities. Under these agreements Department of Defense (DoD) financial assistance will be provided to recipients. Such assistance will cover the DoD share of the cost of establishing new and/or maintaining existing Procurement Technical Assistance (PTA) Programs for furnishing PTA to business entities.

(b) A cooperative agreement is a binding legal instrument which reflects a relationship between the DLA and a cooperative agreement recipient for the purpose of transferring money, property, services or anything of value to the recipient for the accomplishment of the requirements described therein. The requirement shall be authorized by Federal statute and substantial involvement shall be anticipated between the DLA and the recipient during performance of the agreement.

(c) When proposals for cooperative agreements are obtained through the issuance of a DLA program solicitation, this regulation shall be incorporated into the program solicitation by reference or by attachment as an appendix thereto for the purpose of establishing administrative provisions for the execution and administration of DLA Cooperative Agreements. Program solicitations may include additional administrative provisions when such provisions are required by program legislation or program regulations not included herein.

(d) The DoD share of an eligible entity's proposal and award recipient's program cost shall not exceed 50%, except in the case of a distressed entity (as defined in paragraph 3 below) the

DoD share may be increased to an amount not to exceed 75%. However, in no event is the DoD share of any single program cost to exceed \$150,000.

(e) During each fiscal year (FY) for which funding is authorized for the PTA program at least one cooperative agreement for either an existing program or a new start shall be awarded within the geographic cognizance of each of the 9 Defense Contract Administration Services Regions (DCASRs) within the DLA. In cases where the area being or to be serviced by an eligible entity encompasses more than one DCASR's area of geographic cognizance, the eligible entity should submit its applications to the one DCASR having cognizance over the majority of the area being or to be serviced. Only one application will be accepted from a single eligible entity.

2. Policy

(a) It is the DLA policy to encourage and maximize open and fair competition when awarding cooperative agreements for establishing or maintaining existing PTA programs. Cooperative agreements will be awarded on a competitive basis consistent with the best interests of the Government as a result of the issuance of Solicitations for Cooperative Agreement Proposals (SCAPs).

(b) SCAPs inviting the submission of proposals shall be given the widest practical dissemination to all known eligible entities and to those that request copies of the SCAP subsequent to its issuance. All eligible entities that have advised the DCASR of their interest in submitting a proposal under the SCAP will be invited to participate in a presolicitation conference to be held at a location to be designated by the DCASR at least 30 calendar days prior to the SCAP closing date.

(c) Any solicitation issued in accordance with this regulation shall not be considered to be an offer made by the DoD and will not obligate the DLA to make any awards under this program. The DoD is also not responsible for any monies expended or expense incurred by applicants prior to the award of any cost sharing cooperative agreement.

(d) The award of a cooperative agreement under this program shall not in any way obligate the DoD to enter into a contract or give preference for the award of a contract to a concern or firm which becomes a client of the award recipient.

(e) The Federal Acquisition Regulation (FAR) contains numerous clauses and provisions which provide operational guidance and spell out rights and obligations of parties in Federal Procurement transactions. Although the

regulation is not applicable per se to cooperative agreements, some of the provisions contained in the Regulation may be suitable for inclusion in cooperative agreements. Therefore, the clauses and provisions contained therein may be made a part of all cooperative agreement solicitations and awards with eligible entities other than those covered under Office of Management and Budget (OMB) Circulars A-102 (Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments) and A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations). Where appropriate, the language of the clauses will be modified to change "contract" to "cooperative agreement" and "contractor" to "participant" as necessary. Clauses and provisions specified as mandatory are not subject to negotiations. The clauses and provisions will only be used if the applicable dollar threshold is met. For example, if there is a \$100,000 threshold for applying the clause, that particular clause will only be used in the cooperative agreement if the total cost of the project (including both the proposer's and DoD's share of total costs) exceeds that threshold. However, the addition of any clauses and provisions not identified in the solicitation or the modification of clauses and provisions which are not designated as being mandatory will be subject to negotiations.

(f) Award recipients are not required to obtain or retain private consulting services for any extended period of time. Accordingly, any cost being proposed for such services are not to exceed 10% of the total program cost. Costs in excess of 10% included in the eligible entity's proposal will not be allowed.

(g) Reasonable quantities of government publications, such as "Selling to the Military" may be furnished to award recipients at no cost, subject to availability.

(h) For the purpose of executing cooperative agreements, the DCASR Associate Director of Small Business who has been delegated the authority to execute the cooperative agreement shall not require the appointment as a contracting officer.

3. Definitions

The following definitions apply for the purpose of this regulation.

(a) *Client*—A recognized business entity, including corporations, partnerships, or sole proprietorship

organized for profit, which are small and other than small, that have the potential or are seeking to market their goods or services to the DoD.

(b) *Cooperative Agreement Offer/ Application/Proposal*—An eligible entity's response to the SCAP describing their PTA program being operated or being planned. The offer binds the eligible entity to perform the services described therein if selected for an award, and upon the proposal being incorporated into the cooperative agreement award document.

(c) *Distressed Entity*—Local government (as defined in Part 3(d)(ii) below) whose total geographic area being or to be serviced under a proposed PTA program, either:

- (1) Has a per capita income of 80% or less of that State's average, or
- (2) Has an unemployment rate at least 1% above the national average for the most recent 24-month period for which statistics are available from the U.S. Department of Labor.

(d) *Eligible Entities* include:

(1) *State Government*—A State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

(2) *Local Government*—A unit of government in a State, a local public authority, a special district, an intrastate district, a council or governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(3) *Private, non-profit organization*—Any corporation, trust, foundation, or institution which is entitled to exemption under section 501(c)(3)-(6) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(e) *Existing Program*—Includes any PTA type program that has been established and operated by an eligible entity for at least 12 months prior to the closing date for submission of proposals to the DLA, as well as all recipients of cooperative agreements with the DLA, regardless of the length of time their PTA program has been in operation.

(f) *In-kind Contributions*—Represent the value of noncash contributions provided by the eligible entity and non-Federal parties. Only when authorized by Federal legislation may property purchased with Federal funds be considered as in-kind contributions. In-kind contributions may be in the form of charges for real property and

nonexpendable personal property and the value of goods and services directly benefitting and specifically identifiable to the project or program.

(g) *New Starts*—Includes all eligible entities that have not had an established and operating PTA program for a full 12-month period prior to the closing date for submission of proposals under a SCAP. It also includes any eligible entities' program that otherwise meets the definition of an existing program, but whose proposal anticipates expanded geographical coverage or a significant increase in scope of operations.

However, recipients of cooperative agreements with the DLA will not be eligible for consideration as a new start.

(h) *Private Consultant Services*—Services offered by private profit seeking individuals, organizations or otherwise qualified business entities to provide marketing and technical assistance to business firms seeking contracts with Federal, State and local government organizations.

(i) *Solicitation for Cooperative Agreement Proposals (SCAP)*—A document issued by DLA containing provisions and evaluation criteria applicable to all applicants that apply for a PTA cooperative agreement.

(j) *Direct Cost*—Any cost that can be identified specifically with a particular final cost objective. No final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose in like circumstances have been included in any indirect cost pool to be allocated to that or any other final cost objective.

(k) *Indirect Cost*—Any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives or an intermediate cost objective. It is not subject to treatment as a direct cost.

4. Program Description

The objective of the PTA Program is to assist eligible entities in providing marketing and technical assistance to businesses, hereinafter referred to as clients, in selling their goods and services to the DoD, thus assisting the DoD in its acquisition goals and at the same time enhancing the business climate and economies of the communities being served. Specific program requirements to accomplish this objective will vary, depending on location, the types of industries and business firms within the community, the level of economic activity in the community, and many other factors. However, the SCAP will describe the minimum features that a comprehensive PTA Program should generally include, as follows:

(a) *Personnel*—Professional personnel qualified to counsel and advise clients regarding DoD procurement policies and procedures. The areas of consideration should relate to marketing techniques and strategies, pricing policies and procedures, preaward procedures, postaward contract administration, quality assurance, production and manufacturing, financing, subcontracting requirements, bid preparation, and specialized acquisition requirements for such things as construction, research and development and data processing.

(b) *Marketing Tools*—Should include, as a minimum, the Commerce Business Daily, Federal Acquisition Regulation, DoD FAR Supplement, commodity listings from DoD contracting activities, Federal and military specifications and standards, and other Federal Government publications.

(c) *Networking*—Techniques for providing assistance throughout the area being serviced by locating assistance offices in areas of industrial concentration, arrangements with other entities or organizations, establishing data links, and through other appropriate means.

(d) *Fee and Service Charges*—In the event the applicant presently charges or plans to charge clients a fee or service charge, details as to the basis for and amount of the fee to be charged must be described.

(e) *Performance Measurement*—Should include a means of periodically measuring program effectiveness in achieving the objectives described above. Factors to consider in establishing this performance measurement system should include the number and types of clients assisted, including size and social status; the types of assistance rendered, such as marketing and accounting; the number of clients added to the DoD and other Federal Agency bidders mailing lists, the Vendor Profile System of the Minority Business Development Agency, and the Procurement Automated Source System (PASS) of the Small Business Administration, and the value of prime and subcontract awards received by clients resulting from the program.

5. Solicitation for Cooperative Agreement Proposals and Award

(a) The SCAP shall be prepared by the HQ DLA Cooperative Agreement Policy Council and will be issued through each DCASR. The Policy Council will be comprised of representatives from the HQ DLA Offices of General Counsel, Contracting, Comptroller, Congressional Affairs and Small Business. The Staff Director, Small and Disadvantaged

Business Utilization shall serve as General Counsel Chairman. The Council will be responsible for development of the SCAP, including the provisions, specifications, project objectives, proposal evaluation criteria and schedule.

(b) The evaluation of proposals and selection of award recipients resulting from responses submitted to a SCAP shall be conducted as detailed below:

(1) Proposals will be evaluated by a specially constituted evaluation panel established at each DCASR. The panel will be comprised of a small business specialist, contract management specialist, comptroller, and other personnel deemed appropriate by the DCASR Commander. However, the DCASR Associate Director of Small Business, who has been delegated the authority to execute the cooperative agreement, shall not serve as a panel member. A member of the Office of Counsel will be appointed on the panel, but shall serve in an advisory capacity only.

(2) Prior to making a comprehensive evaluation of a proposal, the evaluation panel shall make an initial evaluation to determine if the proposal contains sufficient technical, cost, and other information, has been signed by a responsible official authorized to bind the eligible entity and whether it generally meets all requirements of the SCAP. If the proposal does not meet those requirements, a comprehensive evaluation shall not be made. In such case, a prompt reply shall be sent to the proposer indicating the reason for its proposal not being acceptable. Revised proposals will not be accepted from applicants whose proposals are rejected after the initial evaluation unless the revised proposal is postmarked or is hand delivered prior to the closing date of the SCAP. Any proposal received which is unsigned will not be given additional review consideration and will be returned to the applicant.

(3) The initial evaluation of acceptable proposals will include a review to verify the accuracy of the classification of the proposal concerning the entity's stated program status as existing or a new start. In the event the evaluation panel considers the proposal status misclassified, it will review the matter with the applicant. In the event of disagreement, the panel's determination of the applicant's classification shall be final and not subject to further review.

(4) Proposals which pass the initial evaluation phase will be subjected to a comprehensive evaluation. The basic purpose of the comprehensive evaluation is to assess the relative

merits of the proposals to determine which offer the greatest likelihood of achieving the stated program objectives, considering technical, quality, personnel qualifications, estimated cost, and other relevant factors. Proposal evaluations shall consist of three steps. First, each proposal will be evaluated by the panel in accordance with stated criteria and ranked in order of excellence. Second, the panel will consider the proposal's relevant program objectives to determine which will best further specific program goals. Third, the panel will determine whether sufficient funds have been allocated to the DCASR to cover the DoD share of costs. All findings and recipient selections will be documented, signed, and retained to provide an adequate record to support the panel's decisions.

(c) The Policy Council in developing its recommendation will consider additional factors, such as the extent of geographic overlap among eligible entities and economic downturns in selected geographic areas resulting from base closures or terminations of major DoD contracts.

(d) Upon completion of its review, the evaluation panel will submit the panel results and its recommendations to HQ DLA for review by the Cooperative Agreement Policy Council and for fund control. Upon completion of the Council's review, the results will be submitted to the Commander of the cognizant DCASR for approval.

(e) After approval by the DCASR Commander, the cooperative agreement will be executed by the DCASR Associate Director of Small Business.

6. Evaluation Criteria

(a) The evaluation factors for an existing program and for a new start shall be specified in the SCAP, along with a narrative description of their relative importance.

(b) The following evaluation factors are listed in their order of relative importance and will be considered as the evaluation criteria for new starts:

(1) The types and qualifications of personnel assigned or to be assigned to the program.

(2) The quality of the PTA Program.

(3) The number of clients in the geographic area being or to be serviced.

(4) The percentage of total program costs to be shared by DoD.

(5) The level of unemployment in the area being or to be serviced.

(c) In addition to the above 5 factors, the evaluation criteria for an existing program will include the following factors:

(1) The eligible entity's development, performance and effectiveness in

conducting its PTA Program, including achievements against established goals. This factor will be given more weight than any other single factor during the evaluation of existing programs.

(2) The amount of subcontracting to private consultants. This factor will be given the least weight of any of the 7 factors applicable to an existing program.

(d) As this program applies both to existing PTA Programs and to those being planned, certain of these evaluation factors will be evaluated based upon stated implementation policy for programs being planned. For example, the types and qualifications of personnel assigned will require applicants that do not presently have established but are planning programs to identify the standards to be used in selecting the personnel.

(e) The amount of subcontracting to private consultants is limited to no more than 10% of total program costs. In evaluating this factor for existing programs the smaller the amount of such subcontracting the greater the weight that will be given. However, in the case of new starts, equal weight will be given to all offers, subject only to the 10% limitation.

7. DoD Funding

(a) DoD Authorization and Appropriation Acts may authorize different amounts as the DoD share of costs to support the program each FY. Of the total amount authorized in any FY, a specific percentage is required to be allocated to support existing programs, with the balance being allocated to support new starts.

(b) Any funds authorized for the PTA program will be allocated approximately equally among the nine DCASRs to cover the DoD share of the PTA program cost for existing programs and for new starts. The SCAP will identify the total amount of funds authorized for the related FY, as well as the specific amounts of funds allocated for existing programs and new starts, and the amounts allocated to each DCASR.

(c) The SCAP will, as appropriate, also identify any funding being considered for the program in future years.

8. Cost Sharing Criteria and Limitations

(a) This section sets forth the policy on cost sharing by the Government under DLA Cooperative Agreements. Cost sharing is a generic term denoting any situation wherein the Government does not fully fund the participant's total allowable costs required to accomplish the defined project or effort. The term

encompasses concepts such as cost participation, cost matching, cost limitations (direct or indirect), and participation in kind.

(b) The DoD share of program costs shall not exceed 50%, except in the case of an eligible entity meeting the criteria of a distressed entity. When the prerequisite conditions to qualify as a distressed entity are met, the DoD share may be increased to an amount not to exceed 75%.

(c) In no event shall the DoD share of program costs exceed \$150,000 for any single proposal.

(d) Cost contributions may be to either direct or indirect costs, provided such costs are otherwise allowable in accordance with the cost principles applicable to the award. Allowable costs which are absorbed by the eligible entity as its share of costs may not be charged directly or indirectly or may not have been charged in the past to the Federal Government under other contracts, agreements, or grants.

(e) The SCAP will require applicants to submit an annualized estimated budget, which may include cash contributions, in-kind contributions, and any other Federal Agency funding (including grants, loans, and cooperative agreements). The type and value of any in-kind contribution will be limited to no more than 25% of the total annual budget. However, Federal funds provided under another Federal financial assistance award, including loans (but not including loan guarantee agreements since these do not provide for disbursement of Federal funds) are not acceptable for calculating cost contributions of the eligible entity, but may be included in the annualized estimated budget if the terms of the other award instrument allow such use or written advice from the Agency(s) providing such other funds is obtained which would permit such use. Any method used by the eligible entity in providing the required funds which relies upon Federal funds must be disclosed and identified in the eligible entity's proposal.

(f) Recipients of cooperative agreements shall be required to maintain records adequate to reflect the nature and extent of their costs and to insure that the required cost participation is achieved.

(g) The SCAP will also provide that indirect costs are not to exceed 100% of direct costs.

(h) In the event the applicant charges or plans to charge a fee or service charge for PTA given to clients, or to receive any other income as a direct result of operating the PTA Program, the estimated amount of such

reimbursement is to be clearly identified in the proposed budget and shall be credited against total budgeted costs.

(i) The Federal cost principles as stated in the regulations listed below will be used as guidelines to determine allowable costs in performance of:

(1) OMB Circular A-21 Educational Institutions.

(2) OMB Circular A-87 (FMC 74-4) Cost Principles for State and Local Governments.

(3) OMB Circular A-122. Cost Principles for Non-Profit Organizations.

9. Administration

(a) Cooperative agreements will be assigned to the cognizant DCASR for payment and postaward administration by the Associate Director of Small Business.

(b) The Associate Director of Small Business at the cognizant DCASR will be responsible for periodically reviewing recipient performance, to include a review of budgeted versus actual expenditures, progress being made in meeting goals, compliance with certificates and representations, and other performance factors.

(c) For eligible entities covered by OMB Circular A-102, Uniform Administrative Requirements for Grants-In-Aid to State and local Governments, or OMB Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations, the administrative requirements specified in those circulars will apply.

[FR Doc. 86-1902 Filed 1-30-86; 8:45 am]

BILLING CODE 3520-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before March 3, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for

copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: January 18, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review Requested: NEW

Title: National Assessment of Educational Progress Field Testing—Higher Order Skill Assessment in Mathematics, Science and Technology

Agency Form Number: ED 2371-HOS

Frequency: Non-recurring

Affected Public: Individuals or households; State or local governments

Reporting Burden

Responses: 3,000

Burden Hours: 3,000

Recordkeeping Burden

Recordkeepers: 0

Burden Hours: 0

Abstract: Under a grant for research on the assessment of higher order skills

in mathematics and science, the National Assessment of Educational Progress (NAEP) will be field testing a variety of innovative test exercises that will attempt to measure problem solving, critical thinking and reasoning skills in a national sample of students from different backgrounds in grades 3, 7 and 11.

Office of Postsecondary Education

Type of Review Requested:
EXTENSION

Title: Student Confirmation Report

Agency Form Number: 1072

Frequency: Semi-annually

Affected Public: Businesses, and non-profit institutions

Reporting Burden

Responses: 22,500

Burden Hours: 16,875

Recordkeeping Burden

Recordkeepers: 11,250

Burden Hours: 18,225

Abstract: The Student Confirmation Report is completed twice a year by postsecondary institutions and records information on the status of a borrower who has a Federal Insured Student Loan (FISL). This document is the only vehicle in use to collect FISL information on borrowers. It is used in conjunction with other FISL documents to transmit status information to lenders.

[FR Doc. 86-2155 Filed 1-30-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-1989 General Power Marketing and Allocation Criteria; Pick-Sloan Missouri Basin Program-Western Division

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Final marketing criteria and call for applications for power.

SUMMARY: The Post-1989 General Power Marketing and Allocation Criteria (Criteria) for the sale of energy with capacity from the Pick-Sloan Missouri Basin Program-Western Division (P-SMBP-WD) and the Fryingpan-Arkansas Project (Fry-Ark) by the Western Area Power Administration (Western) is published herein, together with a discussion of the issues raised during the public comment process, and a discussion of revisions made to the Proposed Post-1989 General Power Marketing Criteria (Proposed Criteria) published in the Federal Register on August 23, 1983 (48 FR 38279). Most of the current contracts for the two

projects expire at the end of the 1989 summer billing period; therefore, Western's Loveland Area Office (LAO), formerly known as the Loveland-Fort Collins Area Office, will market energy with capacity under these Criteria beginning no later than the 1989-90 winter season. The LAO expects the allocations to be completed and the contracts ready for signature by allottees in 1987.

EFFECTIVE DATE: March 3, 1986.

DATES: Applications for an allocation of both energy and associated capacity must be received in Western's LAO by close of business on April 1, 1986. See V.E. for further details.

Signed contracts for previously allocated long-term energy and/or capacity from the LAO must be received in Western's LAO by close of business April 1, 1986, to establish eligibility as an existing contractor under these criteria.

Applicant Profile Data must be submitted by potential applicants in the southwest portion of Kansas by April 1, 1986. Applicant Profile Data requirements may either be obtained from the Area Manager, Loveland Area Office, or found at 48 FR 38279, 38282 (August 23, 1983). The southwest portion of Kansas is defined as the area south of the Missouri River Basin and west of the eastern boundaries of the counties intersected by the 100th Meridian.

FOR FURTHER INFORMATION CONTACT: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 224-7201.

SUPPLEMENTARY INFORMATION:

Contents of Supplementary Information Section:

I. Regulatory Procedural Requirements.

- A. Determination Under Executive Order 12291.
- B. Regulatory Flexibility Analysis.
- C. Environmental Assessment.
- D. Statutory Basis of the Criteria.

II. Background of the Development of the Criteria.

III. Summary of Revisions.

- A. Term of Contract.
- B. Applicant Qualifications.
- C. Special Eligibility Requirements for Wholesale Utilities.
- D. Significant and Tangible Steps Toward Becoming Eligible.
- E. Purchased Energy Option.
- F. Marketable Resource.
- G. Load Diversity Adjustment.
- H. Opportunity to Discuss Contract Provisions.
- I. Means to Receive and Distribute Power.
- J. Market Area.
- K. Costs for Firming Purchases.
- L. Limitation of Allocations.

IV. Public Comment Issues.

- A. Ten-Year Contract Term.
 - B. Applicant Qualifications.
 - C. LAO Project Integration.
 - D. Derivation of Marketable Resources.
 - E. Classes of Service.
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1. Applicability.
 2. Marketable Resources.
- B. Marketing Considerations.
1. Market Area.
 2. Service Seasons.
 3. Classes of Service.
 4. Derivation of Marketable Resources.
 5. Allocation Priorities.

C. Allocation of Marketable Resources.

1. Basis of Allocation.
 2. Limit on Energy Allocation.
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- D. Contract Arrangements.
1. General Contract Terms.
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 3. Scheduling, Accounting, and Billing.
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E. Application Procedures.

VI. Appendix A—Derivation of Marketable Resources.

VII. Appendix B—Market Area Map.

I. Regulatory Procedural Requirements

A. Determination Under Executive Order 12291: The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has been exempted from sections 3, 4 and 7 of Executive Order 12291.

B. Regulatory Flexibility Analysis: Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the marketing plan relates to electric services provided by Western. Under 5 U.S.C. 601(2), services are not considered "rules" within the meaning of the Act. Therefore, Western believes that no flexibility analysis is required.

C. Environmental Assessment: An Environmental Assessment (EA) (DOE/EA-0266) was prepared by Western in April of 1985. Further refinements to the Criteria necessitated supplemental environmental analysis, which was completed in December of 1985. A Finding of No Significant Impact (FONSI) determination covering the EA and the supplemental analysis has been made by the Department of Energy in

accordance with the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), 40 CFR Parts 1500-1508. The EA evaluates the potential environmental effects of the Criteria. Copies of the EA and FONSI may be obtained by contacting the LAO Area Manager whose address appears above.

D. Statutory Basis of the Criteria: These Criteria are based upon the provisions of the Reclamation Act of 1902, approved June 17, 1902 (ch. 1093, 32 Stat. 388); the Reclamation Project Act of 1939, approved August 4, 1939 (43 U.S.C. 485h(c)); and the Department of Energy Organization Act of 1977, approved August 4, 1977 (42 U.S.C. 7152, 7191); and are more specifically based upon the provisions of the Flood Control Act of 1944, approved December 22, 1944 (58 Stat. 891); the Frypan-Arkansas Project Acts of 1962 and 1974, approved August 16, 1962 (Pub. L. 87-590, 76 Stat. 389), and October 27, 1974 (Pub. L. 93-493, 88 Stat. 1497); and acts amending or supplementing all of the foregoing legislation.

II. Background of the Development of the Criteria

The LAO is responsible for marketing power in a region encompassing portions of Colorado, Wyoming, Nebraska, and Kansas, which is roughly equivalent to the Lower Missouri River Basin and the Arkansas River Basin in Colorado and Kansas. The power resources to be marketed pursuant to these Criteria are produced by 18 federally owned and constructed powerplants located in Colorado, Wyoming, and Montana. All but one of the powerplants were constructed as features of the North Platte, Shoshone, Riverton, Kendrick, and Colorado-Big Thompson Projects and the Pick-Sloan Missouri Basin Program (P-SMBP). In the 1950's the first five of these projects were integrated with the power features of the P-SMBP for marketing purposes. They are sometimes referred to as the Integrated Projects for this reason. The power features of all six of these projects are collectively referred to as the Pick-Sloan Missouri Basin Program-Western Division. The addition of the words "Western Division" to the project name distinguishes these powerplants from those P-SMBP powerplants whose output is marketed by Western's Billings Area Office in the Eastern Division.

The remaining powerplant, Mt. Elbert, is the principal power feature of Fry-Ark located in central Colorado.

The development of these Criteria began with the identification of 24 alternative marketing plans, which were

presented at a February 18, 1982, public information forum. The LAO held this forum to discuss potential criteria for the marketing of Federal hydroelectric power resources. Interested parties were requested to submit written comments by March 20, 1982, and data on their loads and resources by April 8, 1982. After analyzing the data and considering all public comments, both written and oral, the LAO began to draft the proposed Criteria. The Proposed Criteria were published in the *Federal Register* on August 23, 1983 (48 FR 38279). This same publication included an announcement of public information and public comment forums on the Proposed Criteria and a final request for Applicant Profile Data. These Applicant Profile Data were necessary for any applicant to be considered eligible for an allocation of energy with capacity from P-SMBP-WD and Fry-Ark under the Proposed Criteria. Interested parties were initially given until November 15, 1983, to submit this data. The deadline was later extended to December 30, 1983 (48 FR 54880, December 7, 1983). A second public information forum was held on September 8, 1983. At that forum, the Proposed Criteria were presented and questions from contractors and other interested parties were addressed. A public comment forum was held on October 4, 1983. At this forum, contractors and other interested parties were invited to state their views on the Proposed Criteria. In addition to public comments presented at this forum, written comments were accepted until November 15, 1983.

The Applicant Profile Data and the comments from all meetings and correspondence have been analyzed. The Criteria for marketing energy with capacity from P-SMBP-WD and Fry-Ark are published herein. They supersede the 1962 P-SMBP-WD power marketing plan; the June 23, 1981, power marketing plan for Fry-Ark; and the August 30, 1982, power marketing plan for the sale of P-SMBP-WD excess capacity (P-SMBP-WD Excess).

III. Summary of Revisions

Certain editorial and format changes have been made to the Proposed Criteria for the sake of clarity and consistency. Other changes were made after evaluating all of the comments received. The major revisions to the Proposed Criteria are:

A. The Term of Contract article has been modified to provide for a contract term of 15 years, but with provision for Western to adjust contracted amounts of capacity and energy at the end of 10 years based on the marketable resource. (See IV.A. for further discussion.)

B. Allocation priorities and eligibility requirements have been clarified and modified to recognize a third level of priority for nonpreference entities acting as agents for public entities over other nonpreference entities. Western's Salt Lake City Area Office (SLCAO) has received an application for an allocation from an investor-owned utility on behalf of 143 cities, counties, and towns. Western believes this application does not constitute a situation meriting equal eligibility with consumer-owned utilities, but the arguments in its favor persuade Western that such an arrangement is superior to direct sales to investor-owned utilities and should have priority within the nonpreference category.

C. Special eligibility requirements for wholesale utilities have been eliminated in favor of contract provisions applicable to all contractors. (See IV.B.2.b. for further discussion.)

D. Certain entities who have taken significant and tangible steps to acquire the means to receive and distribute power within a designated period of time are now recognized as qualified applicants for Federal power, provided they meet other applicable requirements as described in V.B.5.b. of the Criteria.

E. The proposed options to purchase and allocate approximately 308 gigawatthours (GWh) of additional energy and to purchase offpeak energy required for maintenance of contractors' pumped-storage energy accounts have been combined and simplified. Western may purchase energy over and above the amount of Western's firm monthly energy obligation, at the contractor's request and on a passthrough cost basis, up to an amount associated with the contractor's load factor and its firm Federal capacity entitlement from the LAO. Western will honor individual contractor energy requests until the LAO system capability to support such purchases is reached. (See IV.D.2.b. for further discussion.)

F. Modifications were made to certain generation capacity, energy production capability, and marketable resource quantities contained in Appendix A. The generation capacity of the P-SMBP-WD and Fry-Ark were modified to reflect recent changes in the maintenance schedules for these powerplants by the Bureau of Reclamation (Reclamation).

The annual energy production capability of the Mt. Elbert Powerplant (table 1, appendix A) has been reduced from 63,751 MWh to 58,247 MWh based on updated information concerning the energy production capability of flowthrough water provided by Reclamation. Certain project and

existing special use designations, which the generation capacity and energy production capability quantities in proposed appendix A were subject to, have been defined and quantified in the final appendix A.

In table 1 of appendix A, the energy requirements for the P-SMBP-WD pumps at Lake Granby, Willow Creek, and Flatiron were added to the available energy of the P-SMBP-WD and subtracted as project use load. This was done so as to be consistent in the handling of project and existing special use loads. Reserve requirements have been reduced from 100 MW to 48 MW. (For further discussion of reserves, see IV.D.2.c.)

G. Statements were added to indicate that diversity among capacity allocations will be retained by Western and that long-term capacity commitments will be subject to reductions if diversity and losses are not equal, as assumed.

H. A statement was added indicating that a reasonable opportunity to discuss contract provisions would be provided prior to Western's contract offer. Allottees will have 6 months to accept the contract offer or until September 30, 1987, whichever is later.

I. The Criteria now state that the right to receive power pursuant to a contract would terminate if means to receive and distribute power are not acquired by September 30, 1988, unless the LAO agrees otherwise in writing.

J. The marketing area for LAO resources has been modified to include the Mountain Parks Rural Electric Association (Mountain Parks REA) service territory, which is located in Colorado, west of the Continental Divide. Mountain Parks REA is a long-standing firm power contractor for capacity and energy from the P-SMBP-WD as a member of Tri-State Generation and Transmission Association, Inc., and the exclusion of this territory in the Proposed Criteria was an oversight.

Additionally, the southwestern portion of Kansas has been added to the marketing area. This part of the State was excluded in the Proposed Criteria. It is currently part of the Fry-Ark marketing area, and Western believes the integration of the P-SMBP-WD and Fry-Ark resources in these Criteria indicates the need to combine the marketing areas as well. Because the marketing area defined in the Proposed Criteria did not include this section of Kansas, entities in this section were not afforded an opportunity to submit Applicant Profile Data. We believe it is appropriate, therefore, to accept Applicant Profile Data from entities in

Kansas who are located west of the eastern borders of the counties intersected by the 100th Meridian, and south of the Missouri River Basin until 60 days after publication of the Criteria in the **Federal Register**. The deadline for entities in all other portions of the marketing area to submit Applicant Profile Data was December 30 1983.

K. The statement that purchase costs incurred in meeting Western's energy and capacity commitments would be on a passthrough cost basis for contractors desiring the service has been modified. Western will purchase any energy required to meet its monthly obligations based upon average water conditions (firming energy) and will not pass the cost through directly to contractors. The rate charged to the contractor for these purchases will be the firm energy rate. The anticipated costs for firming energy purchases will be considered when the firm energy rate is established. Costs incurred by Western in purchasing capacity required to meet its contractors' monthly entitlements due to adverse hydrologic conditions (firming capacity), up to a maximum of 37 MW for any month of the winter season and 38 MW for any month of the summer season, will continue to be on a passthrough cost basis for the contractors who request this service. The maximum monthly capacity purchase each contractor would be subject to, on a passthrough cost basis, will be specified in each electric service contract. While passthrough costs will be incurred as a result of capacity purchase expenses up to the 90-percent probability of exceedence level, purchases up to 99-percent probability water conditions would be blended into the firm power rate.

L. The statement that capacity entitlements would be limited to the allottee's average seasonal demand for 1980, 1981, and 1982 has been changed to indicate the limitation will be on the energy allocation instead of the capacity entitlement. The limitation provision now indicates that no applicant will receive a seasonal energy allocation from the LAO that, when combined with its post-1989 firm energy entitlements from other Federal sources, exceeds its average use for 1980, 1981, and 1982. It also indicates that the historical energy use figures will be adjusted to include additional energy which the applicant can demonstrate was not used during that period as a result of its conservation or energy management efforts. The change was made necessary by the fact that limiting the capacity entitlement after an energy allocation had been made resulted, in certain instances, in a relatively large energy

allocation being associated with a relatively small capacity entitlement. The load factor associated with such an allocation could be greater than 100 percent. This change is in keeping with the original intent of the limitation in that it tends to redistribute any inordinately large allocations that may have been made in the past. (See IV.G. for further discussion.)

IV. Public Comment Issues

A. Ten-Year Contract Term

Western proposed to offer resources for sale for a 10-year period beginning in October 1989 and ending in September 1999.

1. *Comments:* a. A 10-year contract term is too short. It should be extended to 20 years.

b. A 10-year contract term requires and excessive administrative and financial expense on the part of Western and its contractors in almost continual allocation proceedings. The contract term should be at least 20 years even if this means adjustment of allocations after 10 years due to system hydrology.

2. *Discussion:* The proposed term of contract was a subject of comment by many of the respondents, most of whom urged a term of 20 years or longer. A few of the respondents proposed the adjustment of amounts of energy with capacity under contract during the contract period based on changed hydrologic conditions. This suggestion offers a potential middle ground, removing the concern Western has about being locked into contractual commitments not supportable by current hydrology. However, the concept of adjusting the amounts of energy and capacity under contract based solely upon "changed hydrology" does not give Western the flexibility to meet potentially changed circumstances other than hydrology. These include, but are not limited to, possible future allocations in support of conservation and renewable energy projects or changing national priorities or economic conditions that would be likely to occur in a 20-year or longer contract term.

Western recognizes the strong desire of contractors to have as much certainty as possible about future resources. However, there is no absolute certainty about the long-term availability of any resource. Federal power offers some obvious benefits over construction of additional general generating facilities, principally its reasonable cost. In addition, Western is willing to obtain firming capacity or energy in the event the hydroelectric resources are not available when required.

One of the drawbacks of Federal power is the limited time for which it is committed.

A 15-year contract term with the provision of Western to adjust allocations after 10 years provides a reasonable planned commitment. Since commitments are planned to be made in the early part of 1986 for the period ending in the latter part of 2004, the know commitment will actually be for nearly 19 years.

Western is also interested in minimizing administrative procedures which are costly and will not unnecessarily initiate the development of new marketing criteria. However, it is equally important that Western reserve options so that Federal resources in the future can be applied where they are required to meet changing requirements.

While Western does not now foresee any conditions which might dictate the need to adopt policies other than those expressed in these Criteria and in the discussion of Criteria issues, it is prudent that Western retain the flexibility which will enable it to be responsive to future changing circumstances. Western, therefore, cannot support a contract term of 20 years or longer.

3. Summary and Conclusion: After consideration of the many comments provided, Western concludes that the most prudent course of action is to offer a 15-year of contract with provision for adjustment of contract commitments (due to changes in the marketable resource) at the end of 10 years. Western will provide contractors with a minimum of 3 years' notice of any necessary changes and the changes will be made through an appropriate public process. This compromise will give Western the flexibility to meet changed circumstances, which may impact the availability of resources.

B. Applicant Qualifications

In the Proposed Criteria, Western stated that resources would be allocated in accordance with preference provisions of Reclamation law in the following order of priority: (1) Preference entities in the market area; (2) preference entities outside the market area; and (3) nonpreference entities. To have been eligible for an allocation, a preference entity must be an electric utility, a Federal or State ultimate consumer load of a defined type, or an existing LAO contractor for long-term firm power. For an entity to have been considered as an existing contractor under the Proposed Criteria, that entity must have had an executed contract for capacity and/or energy

from the P-SMBP-WD or Fry-Ark generation resources as of July 15, 1984.

The Proposed Criteria also contained special requirements for potential new contractors and wholesale utilities. Potential new contractors must have had a 1982 load greater than 100 kilowatts and, except for State or Federal ultimate consumer type loads, all potential contractors must take steps no later than April 1, 1986, to achieve utility status by September 30, 1988. Wholesale utilities were required to satisfy Western's Administrator: (1) That the benefits of federal financed power are distributed at the lowest possible rates to consumers consistent with sound business principles; (2) that consumers can identify their true power supply costs from all sources so that the costs of growth and the benefits of conservation are identifiable; and (3) that "accountability" for the cost and management of the Federal investment is directly linked between Western and the retailing utility, so that retailing utilities can identify cost and other significant characteristics of each of its power supplies.

1. Comments:

—Criteria for eligibility of wholesale utilities are not clear, are unfair, unnecessary, and unduly burdensome. The methods that will be used to apply the criteria are uncertain and these criteria could create legal and financial problems for some existing contractors.

—Objectives that the Administrator would use to evaluate wholesale utility applications have been accomplished by contract terms.

—Conservation and renewable energy criteria should be established for determining eligibility for an allocation.

—Support Conservation and Renewable Energy (C&RE) program and concur with these provisions as proposed.

—Contractors who have executed Fry-Ark or P-SMBP-WD Excess contracts anytime prior to executing post-1989 contracts should be defined as existing contractors.

—In order to be eligible as an existing contractor, an entity should be required to have executed Fry-Ark or P-SMBP-WD Excess contracts prior to July 15, 1984.

—In order to be eligible as an existing contractor, an entity should be required to have executed Fry-Ark or P-SMBP-WD Excess contracts prior to August 23, 1983.

—In order to be eligible as an existing contractor, an entity should be required to have executed a Fry-Ark contract by October 4, 1983, or a P-SMBP-WD Excess contract prior to December 1983.

—Allocations to existing contractors should not be reduced.

—Inclusion of Fry-Ark in the allocation formula reduces the capacity and energy allocations to existing contractors.

—Allocations should not be made to new contractors.

—Allocation formula should be the same for new and existing contractors and allocations should be based on need.

—Support allocations to new and existing contractors in proportions proposed.

—Oppose any allocation directly to members of a joint action group.

2. Discussion: The comments have been grouped for discussion into the following categories:

a. Distribution among Qualified Preference Entities;

b. Special Eligibility Requirements for Wholesale Utilities;

c. Other Special Eligibility Requirements.

a. *Distribution among Qualified Preference Entities:* Western is mindful of the need to balance the requirements of existing purchasers of Federal power against the requirements of potential new purchasers. Existing contractors will, in most cases under the Criteria, experience a limited reduction in individual allocations. This reduction is a result of the expansion of the number of qualified existing contractors who will receive energy allocations and of offering some benefits to potential new contractors.

The amount of energy available to each potential new contractor is limited to the energy associated with 5 MW of capacity at the LAO system plant factor; 7,295 MWh in the winter season and 8,059 MWh in the summer season. These amounts are probably not sufficient to encourage entities without distribution systems to acquire a system in order to qualify for a share of the available Federal power. This limitation is appropriate because it would be unduly disruptive economically to withdraw large amounts of Federal power from existing contractors. In addition, since the commitment of Federal power is for a limited contract period only, the prospect of acquiring a Federal power allocation today may not be a prudent basis for making a decision to create a consumer-owned utility. Amounts available to potential new contractors are intended to provide some benefit to those preference entities who, for some other reason, have already initiated actions to acquire utility systems or who already have utility systems. On the other hand, it would be equally unjust to

completely exclude qualified preference organizations from participating in the benefits of Federal power simply because the economic circumstances of past years precluded purchasing Federal power. The appropriate distribution of power between existing contractors and potential new contractors is a discretionary decision committed by law to this agency. Western's distribution between these two groups reflects our best judgment of what is appropriate and fair under the circumstances.

Western has extended the deadline for execution of P-SMBP-WD Excess or Fry-Ark contracts in order to be eligible for existing contractor status under these Criteria. This was considered appropriate because these contracts were the first offered by the LAO that had no provisions for delivery of power to load, other than for Colorado River Storage Project (CRSP) power. Instead, the contracts offered delivery only to specified points on the P-SMBP-WD transmission system, leaving the transmission to load as the responsibility of the contractor. Western's Administrator approved the reallocation of Fry-Ark resources on July 31, 1984. Western believes that it is reasonable to offer additional time for execution of these contracts in light of the need for the arrangement for delivery of this power. The Criteria identifies the deadline as 60 days after publication of the Criteria in the *Federal Register*, rather than the previously stated date of July 15, 1984.

b. *Special Eligibility Requirements for Wholesale Utilities*: This proposed requirement was opposed by some wholesale utilities.

Western is committed to promoting the objectives of assuring that the benefits of federally financed power are distributed as widely as possible to consumers and that power supply cost information is available to retailing utilities and retail level consumers. In pursuing these objectives, Western previously singled out wholesale utilities because they add another organizational level through which these objectives must be filtered. The suggestion that requirements should be the same for retail and wholesale utilities is well taken. The basic objectives apply to both types of utilities.

The observation that the objectives proposed for use by the Administrator of Western to evaluate wholesale utility applications are related to existing contract terms is accurate. The existing resale of electric energy provision in existing contracts promotes these objectives, but does not provide for any penalties in the event of noncompliance.

Since the exact requirements of this provision have been questioned in the past, a detailed discussion of it is warranted.

The existing resale of electric energy provision requires the Federal power contractor to take five steps to encourage the widespread use of low-cost Federal power.

First, the contractor contractually agrees to make the benefits of Federal power available at fair and reasonable terms to all of its customers at the lowest possible rates consistent with sound business principles. Second, the contractor agrees to maintain books of account in accordance with the system of accounts prescribed for public utilities and licensees by the Federal Energy Regulatory Commission. Third, the contractor agrees to provide Western with copies of its schedules of retail rates. Fourth, the contractor agrees to submit to Western as annual statement indicating, among other things, that the charges to contractors are consistent with the principles set forth in the first subsection of the resale provision. Fifth, the contractor agrees either to publish operating and financial data annually in a newspaper of general circulation in the member's electrical service area, or to furnish such information by mailing copies of the data to each of its electrical customers.

The underlying philosophy of the existing resale provision is set forth in section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s). This philosophy requires the passing on of the benefits of low-cost Federal power to consumers, under fair and reasonable terms, at the lowest possible rates consistent with sound business principles. This concept is related to the preference clause, but goes beyond the establishment of preference to public bodies and cooperatives. This principle allows Western to verify that the ultimate consumer is receiving the benefits of low-cost Federal power.

Western believes there is merit in comments made by wholesale utilities objecting to the use of the resale of electric energy provisions as a criterion for allocation. Since the objectives of the resale provision can be accomplished through appropriate contractual language, Western has eliminated the special eligibility requirements for wholesale utilities as a criterion for allocation prior to the signing of a contract. Rather, Western will develop contractual provisions to be used with both wholesale and retail utilities to achieve the goals of ensuring that the benefits of Federal power are passed on to consumers and informing consumers of the source and cost of various

components of their power supply. While the existing principles contained in the resale contractual article will be part of this new language, emphasis will be placed on providing information to the power consumer in accordance with flexible but objectively defined standards.

Noncompliance with the contractual provision may result in a penalty of the loss of all or a part of the contractor's energy allocation and associated capacity.

As a result of the deletion of the resale provision as a criterion for allocation to wholesale entities, Western has deleted the provision in the Criteria that provided for allocation directly to the members of a wholesale entity in the event the wholesale entity were to be disqualified for an allocation. As a matter of general policy, however, Western expects the benefits of Federal power will be distributed proportionally by a wholesale entity to each of its preference members who are located within the marketing area of the resource being distributed.

c. *Other Special Eligibility Requirements*: Western received several comments about adopting eligibility requirements which might more effectively encourage conservation and the development of renewable energy resources. It was suggested that Federal hydropower be sold to those preference entities that develop the best Conservation and Renewable Energy programs. Under this approach, conservation would become an eligibility criterion rather than a goal to be encouraged after an allocation is made and a contract signed.

Western fully supports the need to utilize energy efficiently and the importance of encouraging cost-effective and meaningful conservation efforts, as well as the development of alternative methods for the generation of power. However, Western believes that its C&RE program is effective in attaining national, regional, and agency conservation goals. In the absence of an acceptable program, the contractual penalty provision of a potential reduction in the amount of power sold to a contractor offers an adequate incentive to develop C&RE programs of particular relevance to each contractor and its consumers.

Western also believes that Congress has endorsed this approach in encouraging C&RE efforts through contractual provision, as opposed to making conservation an allocation criterion. In the course of debate on the floor of the House of Representatives on the Hoover Power Plant Act of 1984, a

conservation amendment was offered by Representative Udall of Arizona. 130 Cong. Rec. H3336-37 (May 3, 1984). That conservation amendment, which applied to all power sold by Western, adopted the approach of striving for conservation goals through contractual provisions with a power allottee with reductions if predefined goals are not realized. The amendment was approved by Congress and became Title II of the Hoover Power Plant Act of 1984. Given the congressional passage of affirmative legislation which requires accomplishing conservation through contractual provisions, Western believes that it is inappropriate to modify long-standing allocation practices by making conservation the overriding factor in allocating all Federal power resources. (See IV.H. for further discussion of C&RE.)

3. Summary and Conclusion: Some commenters pointed out the lack of clarity in defining eligibility requirements for receiving an allocation of long-term firm resources. Western recognizes the need for further clarification. The applicant qualifications have been revised to include the following:

a. Each potential applicant must have submitted substantially complete Applicant Profile Data to the LAO on or before December 30, 1983. The only exceptions to this deadline being those potential applicants in the southwest portion of Kansas, who must submit substantially complete Applicant Profile Data by April 1, 1986.

b. Each potential applicant must have had a 1982 load greater than 100 kilowatts.

c. Each potential applicant must be an existing contractor for LAO long-term firm power or, by April 1, 1986, must:

(1) Be a utility, primarily engaged in retail or wholesale sales of electricity, with power supply responsibility for the load to be served; or

(2) Be a Federal or State ultimate consumer type load, including such loads of State agencies whose use of power enhances the available Federal power resource; or

(3) Have taken significant and tangible steps to acquire the means to distribute power by September 30, 1988, or have taken initial steps to acquire the means to distribute power by that date and have requested an extension of time for taking significant and tangible steps.

Contractors must have the means to receive and distribute power by September 30, 1988, in order to avoid termination of a contract right to receive power unless the LAO specifically agrees otherwise in writing prior to this date.

In response to the potential hardships of requiring wholesale utilities, for the purpose of qualifying for an allocation, to verify their compliance with the proposed special eligibility requirements for wholesale utilities which identified several specific objectives (selling Federal power at the lowest possible rates to consumers consistent with sound business principles, assuring that consumers can identify true power costs from all sources and assuring that retailing utilities have provided detailed power supply information), Western will depend instead upon contract provisions to accomplish these objectives.

The Criteria have been revised to indicate that the contracts will contain a resale of electric energy provision requiring purchasers of Federal power to demonstrate that:

(1) The benefits of Federal power are distributed to its customers at the lowest possible rates consistent with sound business principles.

(2) Consumers can identify the costs of Federal power and non-Federal power.

When the contractor consists of members or principals who are retail distributors of Federal power, these retail distributors as well as the parent organization will be directly accountable to Western for complying with these requirements. One of the ways these requirements may be satisfied by the contractor and its members or principals is to furnish to customers, on a seasonal basis, a breakdown of the amounts and costs of Federal power and non-Federal power and of the magnitude and type of other costs which constitute the composite costs charged to the customer. Failure to comply with this provision may result in the loss of all or a part of the resources committed to the contractor.

Finally, because of Western's view that there has been congressional support for the approach taken in its existing C&RE program, these Criteria continue to reflect the approach of encouraging conservation efforts through contractual provisions as opposed to making conservation a criterion for allocation.

C. LAO Project Integration

The Criteria reflect the consolidation of the P-SMBP-WD with the Fry-Ark Project to increase the firm marketable resources, simplify contract development and administration, and establish a blended rate for LAO power. Repayment requirements would continue to be determined separately.

1. Comments:

—Oppose operational integration. The resulting blended rate will penalize

existing P-SMBP-WD contractors who have not elected to purchase Fry-Ark pumped storage capacity.

—Blended rate is contrary to statutory restrictions, and the resulting reduction in rates to Fry-Ark contractors encourages consumption rather than conservation with subsequent adverse impact on the environment.

—Support operational integration and blended rate because it achieves the widest practicable and beneficial use of available resources and assures long-term sources of revenue to repay all projects.

—Oppose operational integration and blended rate because of the difficulty in determining who actually uses the power from Fry-Ark. This power will no longer be cost-based, and this will confuse Fry-Ark's repayment status.

2. Discussion: Western does not agree that a blended rate among projects will encourage consumption. The principal purchasers of LAO power draw on a variety of other resources to meet their power needs. Because the rate paid by the end-user is a blend of these various wholesale rates, the impact of the proposed rate change will be greatly reduced by the time the end user receives the blended product. Moreover, the marginal prices paid by the LAO's contractors for new resources to meet load growth promotes conservation over consumption.

The conservation provision, which will be incorporated into Western's electric service contracts, further encourages efficient consumption. Furthermore, Western's environmental analysis indicates that the proposed integration and blended rate will have no significant impact on the environment.

Western sees no legal obstacles to the integration of the resources as reflected in these Criteria with the power marketed at a uniform, blended rate. No provision in Reclamation law prohibits such an integration. In fact, rates for two Western projects have been administratively integrated with smaller Federal power resources in the past.

The integration of the Colorado-Big Thompson, Kendrick, North Platte, and Shoshone Projects into the power repayment study for the P-SMBP-WD is one example. The integration of the Pacific Northwest-Pacific Southwest intertie into the Central Valley Project repayment study is a second instance where administrative intergration took place. Under Reclamation law, the Secretary of the Department of Energy has the authority to perform "any and all acts" for the purpose of putting his statutory responsibilities into full force

and effect (43 U.S.C. 485i; 43 U.S.C. 373). In Western's judgment, this flexibility includes the ability to integrate projects and to charge a uniform rate for the resulting power.

Western also does not agree that operational integration and a blended rate, as reflected in these Criteria, will cause difficulty in determining who is using power from Fry-Ark and that Fry-Ark will no longer be cost based, thereby confusing its repayment status. Under these Criteria, firm resources from Fry-Ark will be proportionally allocated to all firm power contractors. Therefore, there will be no need to differentiate between the firm energy with capacity allocated from the two projects. The blended rate will be determined by the individual power repayment studies (PRS) and revenues from the integrated projects will be divided between the projects in the proportions dictated by these individual PRS. Since these PRS are based on project costs, the blended rate and revenues provided for repayment will be cost based. Part of the administrative cost benefits associated with integration of the projects is reflected in the fact that there is no longer a need for differentiating between the firm power from the two projects. There will no longer be a need to account for interchanges between the projects as capacity and energy sales from one project to the other. Integration will therefore simplify the need for determining who uses firm power from Fry-Ark. The requirement for contractors to submit hourly schedules 24 hours in advance for the use of the pumped-storage energy features of Fry-Ark will make accounting for this use manageable.

Integration of the projects will assure repayment of project costs. The slight additional cost to current P-SMBP-WD contractors under an integrated marketing approach is reasonable considering the efficiencies and additional power to be gained.

3. Summary and Conclusion: Western concludes that operational integration of the LAO resources and the blended rate achieves the widest practical and most beneficial use of the available resource and assures long-term sources of revenue to repay all projects. Western believes that these benefits outweigh the opposition to integrating the resource as proposed.

D. Derivation of marketable resources

Western proposed on August 23, 1983, that capacity available from the LAO projects would be based on the maximum operating capacity of Fry-Ark and on the capacity of the P-SMBP-WD

powerplants based on a 90-percent probability level. Energy would be based on forecasts of average hydrologic conditions. Western proposed to purchase firming capacity and energy on a passthrough cost basis and to allocate approximately 308 GWh of purchased energy.

1. Comments:

—Support opinion to purchase energy to increase the load factor of the available resource.

—Oppose purchase energy option. Suggest purchasing energy only for those contractors who request it.

—Western should base its reserve requirements on its share of the projected Inland Power Pool (IPP) total reserve obligation and market the resulting additional capacity.

—The combined total reserve of 200 MW for the Loveland Area and Salt Lake City Area could be reduced by 50 MW if the operations of the two Areas were integrated.

—Western should use a hydrologic probability lower than 90 percent. This would increase available capacity by 15 to 20 MW.

—Opposes marketing maximum amounts of capacity and energy because that may affect the environment. Maximum amounts are reduced only in 1 month to reflect adverse hydrologic conditions.

2. Discussion: These comments have been grouped for discussion into the following categories:

- a. Hydrology Studies
- b. Purchases
- c. Reserves

a. *Hydrology Studies:* The proposed Criteria indicated that the generation capacity of the P-SMBP-WD would be marketed based upon a 90-percent probability level (i.e., 10-percent risk each year of having insufficient capacity available). The formula used, however, for determining the marketable capacity of the integrated resources defined marketable capacity as the lesser of the maximum available capacity minus reserves, or the capacity at the 90-percent probability level. After reviewing the comments and reevaluating this position, Western has determined that this method resulted in a higher risk of not being able to meet its contractors' monthly entitlements than was intended under the 90-percent probability level scenario. Western has therefore modified appendix A. Marketable capacity is now determined by subtracting reserves, project use, and existing special use loads from the capacity determined to be available using 90-percent hydrologic probability. A column was added to the capacity table in appendix A to indicate the

magnitude of the project use and existing special use loads. The values for the monthly 90-percent hydrologic probability quantities now include reductions for scheduled maintenance.

Western was influenced by a number of factors in adopting the use of a 90-percent hydrologic probability as a basis for determination of marketable capacity. Recognition of the need to provide existing contractors a resource as similar as possible to their current supply and the need to offer new contractors an opportunity to participate in the post-1989 allocation induced Western to depart from the historic policy of using "most adverse" as marketable capacity.

The 90-percent probability level represents a statistical application for P-SMBP-WD only. Fry-Ark is included at maximum operating capacity because of the pumped-storage nature of this resource.

When the 10-percent risk condition of being short of capacity occurs and/or hydroelectric energy is in short supply because a less than average water year has occurred, thermal resources are often called upon to meet the loads normally served from hydrogeneration. This reduces the availability of thermal generation and could increase its cost. If poor hydrologic conditions are experienced in adjoining river basins, the situation is worsened as far as the costs related to the risks are concerned. When other utilities in the area are also experiencing heavy demand and competing for any remaining resources the possibility of capacity not being available at any price must also be considered in determining the marketable resource. For this reason, Western concluded that it would not be prudent to offer marketable capacity with a higher risk of unavailability than 10 percent.

b. *Purchases:* The proposed option to purchase and allocate approximately 308 GWh of additional energy received wide support from commenters, although some contractors voiced concern over the impact it could have on the rates of those contractors who might not want or need this additional allocated energy. They suggested that additional energy be purchased and paid for by only those contractors who requested such service. These comments are well taken and the Criteria has been modified to reflect the fact that the purchase energy option has been adopted in a modified form reflecting the comments received.

Western is not persuaded by comments that question the legal authority to purchase capacity and

energy supplemental to the Federal resource. Power marketing administrations have inherent authority to purchase capacity and/or energy reasonably incidental to the integrated marketing of power from a hydroelectric project. *Kansas City Power and Light Company v. McKay*, 115 F. Supp. 402 (D.D.C. 1953), judgment vacated for lack of standing to sue, 225 F.2d 924 (D.C. Cir.), cert. denied, 350 U.S. 884 (1955). The past practice had been to sell hydroelectric energy based upon average water conditions. For many years, the United States has purchased energy to firm up commitments under electric service contracts. In fact, the practice of maximizing the amount of power to be sold at firm power rates is statutorily required for the Colorado River Storage Project, 43 U.S.C. 620f. The final criteria constitute a reasonable extension of these same historical purchase principles. Western believes that full legal authority exists to market capacity which is available 90 percent of the time and energy which is available much of the time.

c. *Reserves*: Western is a participant in the IPP and a member of the Western System Coordinating Council (WSCC). The requirements of the IPP are identified in the revised IPP Agreement dated November 23, 1983, and the WSCC criteria contain prescribed reserve requirements. The revised IPP Agreement states that IPP reserve requirements will always meet or exceed WSCC requirements. The IPP reserve requirements are currently about 30 MW. IPP reserve requirements are subject to change depending on the largest single hazard in the pool and on the size of the membership. Since the members of the pool have the latitude to withdraw their membership under certain conditions, Western has determined it to be prudent to establish its reserve requirement in the post-1989 period based on IPP requirements and on the assumption that Western's Salt Lake City, Loveland, and Boulder City Area Offices would be the only remaining members of the pool. Under this approach, the Loveland Area Office's reserve requirement would be 48 MW.

3. *Summary and Conclusion*: In response to comments received, Western will purchase energy over and above the amount of Western's firm monthly energy obligation, at the contractor's request and on a pass-through cost basis, up to an amount associated with the contractor's capacity entitlement at the contractor's load factor, until the limit of the LAO system to support such purchases is

reached. This procedure will remove this purchased energy from the allocation process, allow the contractor to use the energy in ways it deems appropriate under contractual restrictions, including use as pump-back energy, and allow the contractor to decide on the amount of energy required.

Western is interested in marketing the maximum amount of capacity it can without assuming a level of risk that could be harmful to either Western or its contractors. After weighing the various probability levels, Western concludes that the use of the 90 percent probability as a basis for determining marketable capacity is appropriate. The use of average hydrology is considered a reasonable basis for determining marketable energy.

After carefully considering the various needs and requirements relative to reserves, Western has provided for a reserve level of 48 MW for the LAO. This will meet the WSCC and IPP requirements and should give Western sufficient flexibility throughout the contract term to maintain adequate reserves.

E. Classes of Service

Western will offer long-term firm energy with capacity, short-term firm capacity with or without energy, or with the return of energy, and other services such as providing pumped-storage energy, sales of surplus energy, delivering or receiving interchange, emergency assistance, maintenance service, and transmission service.

1. *Comment*: Short-term power should be used in the resource coordination program only after it is offered for sale to preference contractors.

2. *Discussion*: In the past, when Western determined that short-term firm capacity with or without energy was available for sale, such resources were offered to preference contractors first. Under these Criteria, such resources will be marketed in accordance with the same allocation priorities as any other "available resource."

3. *Summary and Conclusion*: Western will market short-term capacity with or without energy, or with the return of energy in accordance with priorities presented in V.B.5.a. of the Criteria.

F. Reallocation

The LAO's Proposed Criteria indicated in Part III.C. "Reallocations," that:

Long-term firm energy with associated capacity available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by

Western's Administrator without further public process.

1. *Comments*: Request a statement be included to define how reallocations will be made. Suggest reallocations be distributed on a pro-rata basis to the allottees found eligible during the initial applicatoin of this Criteria.

2. *Discussion*: Western believes that reallocating on a pro-rata basis to those entities who were found to be eligible under initial application of these Criteria is one appropriate way of redistributing energy or capacity made available because an allocation has been reduced or rescinded. Although this is the method that will be used in most cases, flexibility of the Criteria would be lost if such a statement were included. For instance, if a municipal contractor were to fail to sign an offered contract that contained a relatively small allocation, it would not be prudent to expend the resources that would be required to redistribute such a small amount of energy on a pro-rata basis to all initially eligible contractors. Such a redistribution could be administratively burdensome.

3. *Summary and Conclusion*: Western intends to make reallocations, whenever possible, on a pro-rata basis to applicants who were found to be eligible for an allocation of power under initial application of these Criteria. We have, however, retained the original language in the reallocations section which states that reallocations may be made by the Administrator of Western without further public process. This was done in order to retain flexibility to cover situations such as the one discussed as well as any unforeseen situations that may arise.

G. Limitation of Allocations

Western has proposed a capacity allocation limitation from combined Federal sources based on the average of 1980 through 1982 average peak demands.

1. *Comment*: Limitation should be based on 1989 loads. Some contractors have been purchasing peaking capacity that has not yet been fully utilized.

2. *Discussion*: The purpose of the proposed limitation is to ensure fair and equitable distribution of Federal resources. Since final allocations are planned to be prepared in 1986, 1989 loads would be projected figures. Western feels that the variety of forecasting techniques and the inherent uncertainty of forecasting in general would insert an unacceptable measure of uncertainty into the allocation process. The only disadvantage in the proposed limitation would be to entities

that have experienced faster growth than the average applicant in the years since 1980. Administrative delays in the finalization of the Criteria have forced this limitation to be based on data that is more historic than was originally anticipated, but Western feels that requesting updated Applicant Profile Data would be unduly burdensome to Western and the applicants for post-1989 Federal resources. Western has, however, become aware that this restriction may be unfair to some applicants whose 1980 through 1982 loads were reduced through conservation or load management efforts. The Criteria have been modified to account for such reductions. Applicants for power who have experienced historical load reductions due to C&RE efforts are encouraged to substantiate such a reduction as part of the application for energy. In recognition of the fact that energy is the commodity being allocated pursuant to these criteria, the capacity limitation has been changed to an energy limitation.

3. **Summary and Conclusion:** To ensure equitable distribution of Federal resources, Western believes the most prudent course of action is to retain the limitation, modified as indicated in the discussion in section III.L. and as follows:

No applicant will receive a seasonal allocation of energy from Western that, when combined with its total post-1989 Federal firm energy entitlements from all Federal sources, exceeds its average seasonal total energy use for 1980, 1981, and 1982. The average seasonal total energy use for 1980, 1981, and 1982 will be adjusted to include additional energy which the applicant can demonstrate was not used during that period as a result of its conservation or energy management efforts.

H. Shaping and Storage for Renewable Energy Resources

Western currently supports renewable energy projects by contractually allowing integration of these resources into the LAO power system.

1. **Comment:** Western should actively pursue the means to effectively integrate renewable resources that may be seasonal in nature into the Criteria.

2. **Discussion:** Western supports the need to develop cost-effective renewable energy resources. Support of this activity through Criteria provisions would require that a capacity reservation be set aside for this use. This capacity reservation would be deducted from the total available resource and would result in a reduction in the allocations to all preference contractors. Western is considering the institution of a program of this type in the Salt Lake City Area, in which

approximately 30 MW may be allocated to entities who have exemplary conservation programs or who participate in renewable energy projects which meet specific criteria. Western believes, however, that a program of this type is premature in the Loveland Area due to the limited availability or resources in this Area.

3. **Summary and Conclusion:** Western believes its most prudent course of action in the Loveland area, for the period 1989 to 2004, is to allocate the available resource without a reservation for promotion of C&RE projects and to continue to support conservation and renewable energy projects that provide an economic resource to Western and its contractors through separate agreements. This will permit Western to support these projects on a case-by-case basis.

V. Post-1989 General Power Marketing and Allocation Criteria

A. General:

1. **Applicability:** These Post-1989 General Power Marketing and Allocation Criteria (Criteria) of the Western Area Power Administration's (Western) Loveland Area Office (LAO) are established in accordance with the provisions of the Reclamation Project Act of 1902, approved June 17, 1902 (ch. 1093, 32 Stat. 388); the Reclamation Act of 1939, approved August 4, 1939 (43 U.S.C. 485h(c)); and the Department of Energy Organization Act of 1977, approved August 4, 1977 (42 U.S.C. 7152, 7191); and are more specifically based upon the provisions of the Flood Control Act of 1944, approved December 22, 1944 (58 Stat. 891); the Fryingpan-Arkansas Project Acts of 1962 and 1974, approved August 16, 1962 (Pub. L. 87-590 76 Stat. 389), and October 27, 1974 (Pub. L. 93-493 88 Stat. 1497); and acts amending or supplementing all of the foregoing legislation.

These Criteria shall become effective on the first day of the October 1989 billing period and will apply to all power marketed by Western's LAO other than power from the Colorado River Storage Project (CRSP). Contract arrangements existing on the effective date of these criteria will only be affected upon amendment by the parties. These Criteria will supersede the 1962 Pick-Sloan Missouri Basin Program-Western Division (P-SMBP-WD) power marketing plan, the Fryingpan-Arkansas Project (Fry-Ark) power marketing plan for the sale of power from the Mt. Elbert Pumped-Storage Powerplant of Fry-Ark effective June 23, 1981, and the power marketing plan for the sale of excess capacity in the P-SMBP-WD effective August 30,

1992. These criteria are subject to change upon reasonable notice by the Administrator of Western and the opportunity for comment by interested parties.

2. **Marketable resources:** a. **PO-SMBP-WD Resources:** The LAOP markets power penetrated at 17 P-SMBP-WD powerplants situated in Colorado, Wyoming, and Montana. The energy production and generation capacity capability of these resources are:

	Winter	Summer
Energy (MWh) ¹	1,022,100	1,254,400
Capacity (MW) ²	484.0	557.0

¹ At plant annual energy production based on average year water, from table 1, appendix A.

² Generation capacity based on 90-percent hydrologic probability, from table 2, appendix A.

b. **Fry-Ark Resources:** The Mt. Elbert Powerplant, with two 100-MW reversible pump/turbines, comprises the power feature of Fry-Ark. The energy production and generation capacity capability of these units are:

	Winter	Summer
Energy (MWh) ¹	33,478	24,769
Pumped Storage Energy (MWh) ²	2,800	2,600
Capacity (MW) ³	200	200

¹ At plant annual energy production of flowthrough water from table 1, appendix A.

² Energy available each time the reservoir is refilled. Return energy of 3,920 MWh is required to refill the reservoir.

³ Maximum available capacity from table 2, appendix A.

c. **Operationally Integrated Resources:** More effective utilization of the resources of the P-SMBP-WD and Fry-Ark will be achieved by continuing the operational integration of the two projects.

The marketable resources available annually at load by operationally integrating the projects are found in table 3 of appendix A, and are summarized below:

	Winter	Summer
Energy Production (MWh).....	932,541	1,155,300
Generation Capacity (MW).....	639.5	716.5

The P-SMBP-WD energy production and generation capacity capabilities are subject to completion of the Shoshone Project modifications, water from the Windy Gap Project, as well as various upgrades scheduled for completion before 1989. Should Congress authorize any future P-SMBP-WD irrigation projects requiring pumping power, such power will be purchased until a new marketing plan is developed.

In addition to the marketable resources to be allocated under these

Criteria, Western will offer the pumped-storage energy feature of Fry-Ark to its contractors under the following conditions:

At the beginning of the contract period for contracts executed pursuant to these Criteria, each contractor will be deemed to have 4.4 kWh/kW of their seasonal capacity entitlements for the winter season and 3.9 kWh/kW of their seasonal capacity entitlement for the summer season as pumped-storage energy in an energy account. Each contractor may schedule energy into and out of its energy account by mutually agreed upon hourly schedules which must be submitted to Western 24 hours in advance. The energy account may never exceed the initial value and the account must be restored to these initial levels at the end of each season. Energy may be scheduled out of the energy account only when there is a positive balance in the account. The combined rates of delivery of the pumped-storage energy and the firm energy scheduled from combined LAO sources may never exceed the contractor's monthly capacity entitlement. For every kWh scheduled out of the energy account, 1.4 kWh must be scheduled into the account. Energy will normally be scheduled into the energy account during offpeak hour, which, for pump-back purposes, are initially defined as the hours between 2200 hours on any day to 0800 hours of the next succeeding day. These hours are subject to change should operating experience indicate that such a change is necessary. Contractors may schedule energy into the energy account at times other than offpeak hours when special circumstances warrant, subject to Western's approval. For contractors that are not directly interconnected with Western's transmission system at Malta Substation, losses and wheeling over the Public Service Company of Colorado system will be assessed on schedules into and out of pumped-storage energy accounts. The rate of energy scheduled into the energy account during any season may not exceed 1.4 times the contractor's capacity entitlement for that season unless the LAO grants prior written permission for a contractor to do so.

d. *Future Resources:* New or revised marketing criteria will be developed as necessary when future power resources are available and offered for sale.

B. Marketing Considerations

1. *Market Area:* The market area for power from the LAO is described as the portion of the State of Wyoming east of the Continental Divide, the portion of the State of Colorado east of the

Continental Divide, Mountain Parks REA's service territory in Colorado west of the Continental Divide, the portion of the State of Nebraska west of the 101st Meridian, the portion of the State of Kansas located in the Missouri River Basin, and the portion of the State of Kansas west of the eastern borders of the counties intersected by the 100th Meridian. These marketing area boundaries are approximated on the map in appendix B.

2. *Service Seasons:* a. *Winter Season:* The winter season is defined as the 6-month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the next succeeding calendar year.

b. *Summer Season:* The summer season is defined as the 6-month period from the first day of the April billing period of any calendar year through the last day of the September billing period of the same calendar year.

3. *Classes of Service:* The classes of service to be offered by the LAO are based upon operational integration of the P-SMBP-WD and the Fry-Ark resources.

a. *Long-Term Firm Energy With Capacity:* The LAO will offer firm energy commitments based on average hydrologic conditions. Any energy in excess of that available which is required by the LAO to meet its firm energy commitments under these Criteria, would be purchased by Western. The rate charged to the contractor for these purchases will be the firm energy rate. The anticipated costs for firming energy purchases will be considered when the firm energy rate is established.

Generation capacity offered by the LAO will be based upon the installed capacity of Fry-Ark and upon the 90-percent probability level of the powerplants of the P-SMBP-WD. A portion of any generation capacity which may be required by the LAO to meet its monthly obligations, due to unfavorable hydrologic conditions, would be purchased by Western's contractors or by Western on a passthrough cost basis upon the contractor's request. The portion of these purchases that would be subject to passthrough costs is that portion between the 99-percent and the 90-percent probability level, which amounts to a maximum purchase risk to all contractors, collectively, of 37 MW for the worst case month of the winter season and 38 MW for the worst case month in the summer season. Any costs associated with required capacity purchases up to a 99-percent probability

level will be incorporated into the rate base for the LAO blended rate. The maximum purchase for each month that every contractor would be subject to on a passthrough cost basis will be specified in each electric service contract.

Western may utilize the pumped-storage feature of Fry-Ark during onpeak hours to firm its long-term firm energy with capacity commitments. Offpeak energy purchasers will be required to replenish any water used during these onpeak hours. The costs for these purchasers will be incorporated into the LAO blended rate base.

Table 3 of appendix A shows the seasonal energy production and generation capacity to be allocated with the long-term firm energy with capacity class of service.

b. *Short-Term Firm Energy and/or Capacity:* To the extent that project and existing special uses, as estimated in appendix A, have not developed and/or annual stream-flow conditions and reservoir operations result in the production of greater amounts of power than is committed on a long-term basis, short-term firm energy and/or capacity may be offered for sale on a monthly or seasonal basis. Such offers will be for firm energy with or without capacity, capacity with the return of energy, or capacity without energy. These resources may be integrated with the resources of other entities.

c. *Other Services:* In addition to marketing these classes of service, the LAO will engage in other transactions, such as providing pumped-storage energy as described in V.A.2.b. and c., sales of surplus energy, delivering or receiving interchange, emergency assistance, maintenance service, and/or regulation services to the extent that resources permit.

Western will purchase energy over and above the amount of Western's firm monthly energy obligation, at the contractor's request and on a passthrough cost basis, up to an amount associated with the contractor's monthly Federal capacity entitlement at the contractor's load factor. Western will honor individual contractor energy purchase requests until the LAO hydroelectric system capability to support such purchasers is reached.

In order to conserve fossil fuels, enhance the environment, and/or ensure the availability to preference contractors of contracted amounts of energy and capacity, Western may purchase or exchange energy and/or capacity, as necessary or desirable to supplement its resources. Nonfirm energy service may be available as a

result of these purchases or exchanges. To the extent that transmission capacity is determined to be available, the LAO will provide firm and nonfirm transmission service.

4. Derivation of Marketable

Resources: Capacity available from LAO resources will be based on the installed capacity of Fry-Ark along with the capacity of the P-SMBP-WD powerplants based on 90-percent hydrologic probability. Energy available for load will be based on average hydrologic conditions. Energy with associated capacity will be reserved for certain project use and existing special use requirements.

The derivation of the marketable resources for LAO, the availability of these resources by seasons, and identification of project use and existing special use loads is contained in appendix A.

5. Allocation Priorities: a. Available resources will be allocated in accordance with these Criteria and the preference provisions of Federal law in the following order of priority:

(1) Preference entities within the LAO market area.

(2) Preference entities outside the LAO market area.

(3) Nonpreference entities acting as agents for public entities without distribution systems.

(4) Nonpreference entities acting on their own behalf.

These priorities may be recognized within pricing blocks for nonfirm energy.

b. **Applicant Qualifications:** The following requirements must be met in order to be eligible for an allocation of long-term LAO resources:

(1) Each potential applicant must have submitted substantially complete Applicant Profile Data to the LAO on or before December 30, 1983. The only exceptions to this deadline are those potential applicants in the southwest portion of Kansas, who must submit substantially complete Applicant Profile Data by April 1, 1986.

(2) Each potential new contractor must have had a 1982 load greater than 100 kW.

(3) Each potential applicant must be an existing LAO contractor for long-term firm power or, by April 1, 1986, must:

(a) Be a utility, primarily engaged in the retail or wholesale sale of electricity, with responsibility for the load being served; or

(b) Be a Federal or State agency with an ultimate consumer type load, including such loads of State agencies whose use of power enhances the available Federal power resource; or

(c) Have provided evidence to the LAO that significant and tangible steps

to acquire the means to distribute power by September 30, 1988, have been taken, or provided evidence that initial steps to acquire the means to distribute power by that date have been taken and the contractor has requested an extension of time for taking significant and tangible steps.

Significant and tangible steps toward becoming a utility would include one, or some combination, of the following:

(i) Evidence of a financial commitment to purchase or construct a transmission system to distribute power;

(ii) Evidence of negotiations with a utility regarding distribution system acquisition;

(iii) Action before a public service or public utility commission to acquire a distribution system;

(iv) Initiation of condemnation proceedings; and/or

(v) Construction of a distribution system.

C. Allocation of Marketable Resources

1. **Basis of Allocation:** To ensure widespread distribution of the benefit of Federal power, the LAO will divide its net resources into two parts representing a reservation for new contractors and a reservation for existing contractors. Existing contractors are defined as those eligible applicants in the market area described in V.B.1. who have a contract for long-term firm capacity and/or energy from the P-SMBP-WD or Fry-Ark generation resources as of April 1, 1986. The reservations for each group are detailed in table 3 of appendix A. The portion of total seasonal resources to be reserved is based upon the ratio of energy currently available to existing contractors and the total energy available for allocation: 1,918,247/2,087,841 MWh. Each contractor's monthly capacity entitlement will be a percentage of the seasonal capacity entitlement. These percentages are shown in appendix A, table 2, column (7).

a. **Allocation Criteria for New Contractors:** The seasonal energy reserved for new contractors, table 3 of appendix A, will be allocated according to the proportion each new contractor's average energy consumption in 1980, 1981, and 1982 bears to the total of all new contractors' average energy consumption in the same period.

Eligible applicants may request capacity with allocated energy based upon its individual system characteristics. If there is insufficient capacity in the reservation for this group to satisfy all of the capacity requests, the LAO may limit the capacity entitlement, but not below the capacity

associated with the plant factors of the resources reserved for this group: 33.4 percent in the winter season and 36.7 percent in the summer season.

New contractors may not receive a seasonal allocation of energy greater than the energy associated with 5 MW of capacity at the seasonal plant factors specified above: 7,295 MWh in the winter season and 8,059 MWh in the summer season.

b. **Allocation Criteria for Existing Contractors:** The seasonal energy reserved for existing contractors, table 3 of appendix A, will be allocated according to the proportion each existing contractor's long-term firm Contract Rate of Delivery (CROD), in effect at the close of business on April 1, 1986, from P-SMBP-WD and Fry-Ark resources, bears to the total of all existing contractors' long-term firm CRODs.

Eligible applicants may request capacity with allocated energy based upon its individual system characteristics. If there is insufficient capacity in the reservation for this group to satisfy all of the capacity requests, the LAO may limit the capacity entitlement, but not below the capacity associated with the plant factors of the resources reserved for this group: 33.4 percent in the winter season and 36.7 percent in the summer season.

2. **Limit on Energy Allocation:** No applicant will receive a seasonal allocation of energy from Western that, when combined with its total post-1989 Federal firm energy entitlements from all Federal sources, exceeds its average seasonal total energy use for 1980, 1981, and 1982. The average seasonal total energy use for 1980, 1981, and 1982 will be adjusted to include additional energy the applicant can demonstrate was not used during that period as a result of its conservation or energy management efforts. Entities applying for power are encouraged to document any conservation impact on historical energy consumption as part of any application for power.

3. **Reallocations:** Long-term firm energy with associated capacity made available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by Western's Administrator without further public process.

D. Contract Arrangements

Those entities receiving an allocation and taking any other required steps, will be offered an electric service contract for the allocated resources based on these Criteria after reasonable opportunity to discuss proposed

contract language has been provided to allottees. Allottees will have 6 months to sign the offered contract or until September 30, 1987, whichever is later.

1. General Contract Terms: a. **Effective Date and Contract Term:** Existing contracts will be allowed to expire by their own terms. Contracts offered for the sale of newly allocated long-term firm energy with capacity will become effective on the first day of the October 1989 billing period (or upon expiration of an existing contract, if later) and will terminate on the last day of the September 2004 billing period. However, at the end of the 1999 summer season billing period, the provisions of the contracts concerning the amounts of energy and capacity committed will be subject to revision based on the marketable resource. Any necessary revisions to these contract provisions will be determined by Western and presented to the contractors by the end of the 1996 summer season billing period.

b. **Power Receipt and Distribution:** Contractors must have the means to receive and distribute power by September 30, 1988, in order to avoid termination of contract rights unless the LAO specifically agrees otherwise in writing prior to this date.

c. **Conservation and Renewable Energy (C&RE) Program:** An "Announcement of Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs" was originally published in the Federal Register (46 FR 56140) on November 13, 1981, and amended in the Federal Register on August 21, 1985 (50 FR 33892). To achieve the stated purposes, the LAO will guide and assist its firm contractors in their C&RE development, as requested and to the extent possible. As specified in the "Final Guidelines," failure to develop a C&RE program that meets Western's Acceptance Criteria may subject a contractor to the potential loss of up to 10 percent of its allocation.

Existing contractors will implement the terms of Western's C&RE program, or any that may supersede it, within 1 year of the date of contract execution. New contractors will implement a C&RE program no later than 1 year subsequent to the date of execution of a contract for Federal power. The development of the program is the responsibility of each contractor receiving long-term firm energy with capacity and its member systems, if any, benefiting from the purchase of Federal long-term firm power.

d. **Allottee Purchasing Agents:** Western may contract with a single purchasing agent for two or more

allottees, under these Criteria, upon request of the allottees. Western, however, will not be willing to eliminate load diversity that permits it to meet its operating obligations.

e. **Load Diversity Adjustment:** Contract provisions shall permit Western to adjust monthly capacity entitlements downward on a proportional basis in the event total system load diversity does not cover transmission system losses or other operating requirements.

f. **Resale Provisions:** All contracts for long-term firm energy with capacity under these Criteria will contain a resale of electric energy provision. Existing contractors will implement the terms of this resale provision upon contract execution. New contractors will implement them upon receipt of Federal power. The resale of electric energy provision will include, among other things, a requirement that the contractor demonstrate that:

(1) The benefits of Federal power are distributed to the contractors' consumers at the lowest rates consistent with sound business principles, and

(2) Consumers can identify the costs of Federal power and non-Federal power.

When the contractor consists of members or principals who are retail distributors, of Federal power, these retail distributors, as well as the parent organization, will be directly accountable to Western for complying with the resale provisions. One of the ways these requirements may be satisfied by the contractor and its members or principals is to provide cost information semiannually to their customers, including a breakdown of the amounts and costs of Federal power and non-Federal power, and of the magnitude and type of other costs which constitute the composite costs charged to the customer.

Failure to comply with the resale provisions may result in the loss of all or part of the resources committed to the contractor.

2. **Long-Term Firm Energy With Capacity Obligations:** a. Monthly long-term firm energy delivery obligations with associated capacity for each season will be set forth in each contractor's electric contract. Western's monthly energy obligation will reflect the same monthly distribution of seasonal energy allocation as shown in table 1 of appendix A for the monthly distribution of total marketable energy at load. Monthly capacity entitlements will reflect the same monthly distribution of seasonal capacity entitlements as is shown in table 2 of

appendix A for the monthly distribution of marketable capacity.

Western's capacity obligation for a given hour will be limited to the capacity scheduled during that hour; i.e., contractors will not be entitled to claim unscheduled capacity as operating expenses.

b. The monthly energy obligations may be increased at Western's discretion, should short-term conditions allow. If the established limit is increased for any month, it may be subsequently decreased at Western's discretion to the normal monthly energy delivery obligations set forth in the electric service contract.

3. **Scheduling, Accounting, and Billing:** The LAO its contractors will establish mutually agreeable scheduling and accounting procedures, based upon accepted utility industry practices, which will provide efficient and practicable utilization of energy and capacity. These procedures will be set forth in Western contracts or in separate written agreements made a part thereof.

a. **Scheduling:** (1) Each contractor's maximum scheduled rate of delivery for long-term firm energy in each billing period will be the monthly capacity entitlements as indicated by the percentages of seasonal capacity entitlement in column (7) of table 2 of appendix A.

(2) All long-term energy with capacity contractors will be required to maintain a minimum power schedule in order to meet water release constraints and permit offpeak purchase of energy which may be required to meet Western's total energy or capacity obligations. The minimum schedule requirement may be changed as necessary to meet changing water release constraints, resource constraints, or seasonal variation in hydrologic conditions. Upon request by the contractor, the LAO may waive or reduce the requirement for a minimum schedule.

(3) The monthly minimum percentage of each contractor's seasonal capacity entitlement which must be scheduled is:

Winter season/percentages	Summer season/percentages
October—19	April—19
November—19	May—21
December—22	June—24
January—21	July—32
February—17	August—25
March—17	September—17

(4) Each contractor electing to utilize the pumped-storage energy feature of Fry-Ark must schedule this energy into and out of the energy account as described in part V.A.2.c. of these Criteria.

b. Accounting and Billing: (1) The amounts of capacity to be paid for by the contractor will be determined in accordance with accounting procedures set forth in the contracts and will be based on the seasonal capacity entitlement. Said accounting procedures will include determining the amounts of energy delivered to the contractor at each point of delivery and shall establish the amounts of Federal energy delivered over the LAO transmission system to each contractor at each point of delivery.

(2) Firm energy with associated capacity will be billed at a blended P-SMBP-WD and Fry-Ark rate to recover the revenue requirements of the individual projects.

(3) These procedures will also provide for billing at multiple points of delivery. If the contractor's distribution system is operated as to permit power to flow between points of delivery, accounting and billing will be on a coincidental basis. Otherwise, accounting and billing will be on a noncoincidental basis.

(4) The cost of energy purchased on behalf of a contractor, as specified in V.B.3, "Other Services," each month by the LAO in excess of that necessary to meet LAO contractual obligations shall be the average cost of such purchases during the month. The cost of capacity purchased on a passthrough cost basis on behalf of a contractor each month by the LAO to meet LAO contractual obligations shall also be the average cost of such purchases during the month. Western's allocable costs will be added to the cost of these purchases. These costs shall be accrued during the month in which they are incurred. To the extent they were not anticipated and collected during the same month, they will be billed to contractors during the following month or portion thereof, as the LAO deems appropriate, along with the regular monthly power bill. Trust funds will be established prior to Western's expenditures for such purchases.

4. *Delivery Conditions: a. Location and Voltage:* All delivery points will be on the LAO transmission system. Normal delivery will be made at LAO transmission system voltages. Deliveries may continue to be made at subtransmission voltages at power-plant, substation, and tap locations where contractors already have systems operating at such lower voltage levels.

b. *Modifications to Facilities:* Modifications to existing facilities and alternate or additional delivery points requested by contractors may be permitted at the discretion of the LAO, with costs for such modifications being assigned to the appropriate parties.

Requests for substations or taps will be considered on a case-by-case basis, with final determination by the LAO.

c. *Federal Transmission:* Energy other than LAO energy will be transmitted over the LAO transmission system to the extent that transmission capacity is determined by the LAO to be available. The contractor shall pay for such service at the established rate for LAO transmission service.

d. *Delivery Beyond the LAO Transmission System:* All costs, including losses, for delivery of energy beyond the LAO transmission system will be the responsibility of the contractor.

The following alternatives are available to contractors for accomplishing delivery of LAO energy beyond the LAO transmission system:

(1) The contractor(s) may construct all facilities to accept delivery from the LAO transmission system at established voltage(s). The basic design of any facilities which interconnect with the LAO transmission system is subject to LAO approval.

(2) Arrangements may be made with a third party to transmit and deliver energy to a contractor's point of use. Such arrangements will normally be made by the contractor, or by a group of contractors. When the contractor makes its own transmission arrangements, the contractor will be billed directly by the transmission agent and will pay the transmission charges directly to the transmission agent. If the LAO contracts for the transmission on behalf of the contractor or group of contractors, the LAO will pass the costs, along with associated allocable costs, to the contractor(s).

(3) The LAO may construct the transmission facilities required beyond the existing LAO transmission system. Payment for the constructed facilities may be borne by the P-SMBP-WD, Fry-Ark, future projects, or the beneficiaries thereof, as determined by Western.

E. Application Procedures

Western hereby requests all qualified applicants to apply to the Area Manager, Loveland Area Office, in writing, for an allocation of energy and capacity under these Criteria. Applications from each potential allottee must be received in Western Loveland Area Office at P.O. Box 3700, Loveland, Colorado 80539, no later than the close of business on April 1, 1986. Applicants must identify the kWh/kW desired for both the summer and winter seasons. Western's Administrator will allocate the available resources under the terms of these Criteria only to those applicants who

are qualified and who provide a request for energy by the specified data. Proposed allocations will be published in the *Federal Register* for public comment prior to finalization.

VI. Appendix A—Derivation of Marketable Resources:

A. Derivation of P-SMBP-WD Marketable Resources

Western and Reclamation have conducted a series of joint studies to quantify post-1989 water systems operations and the corresponding capabilities of the P-SMBP-WD power system, including its capabilities for hydrothermal. This summary describes the methodology and procedures for defining and quantifying the power resources of the P-SMBP-WD for the post-1989 time period.

1. *At-Plant Capability Basis for Existing Allocations:* The firm power allocations established in 1962 were based on Reclamation's 1956 hydrology study. The results of that study are summarized in table 2 of "Level 1 Report, Hydropower Capability and energy of P-SMBP-WD, August 1980." After considering losses and pumping requirements, the average year energy production capability was 1,860 GWh. Based on the projected load pattern of its preference contractors at that time, Reclamation determined that this average year energy production capability would support firm power allocations of 346 MW in the winter season and 384 MW in the summer season. This allocation of resources included project use loads.

After the allocations were made, each contractor's Federal entitlement was a proportionate share of its total load. The proportionate share was determined by the ratio of the contractor's seasonal CROD to its seasonal peak demand.

From 1962 until 1983, the difference between the firm generation capacity allocated and the actual available generation capacity was marketed on a seasonal basis.

Since Reclamation's 1956 hydrology study and the 1962 allocation, there have been many changes on the P-SMBP-WD system. Contractor loads and load patterns have changed substantially. The expiration of most existing contracts in 1989 and the requirement to develop a post-1989 marketing plan in conjunction with these changes and proposed further changes before 1989 promoted the need for an update of the 1956 Reclamation hydrology study.

Western and Reclamation determined that three levels of study effort were

required. The first level was an update of the 1956 study assuming initial water conditions and the system configuration existing in 1980. The second level of effort was a followup of the 1980 update to determine the hydrothermal integration capability of the P-SMBP-WD system. The purpose of that effort was to provide the hydrologic and load obligation basis for marketing unallocated firm generation capacity and energy production capability between 1983 and 1989.

Following the second level study, additional generation capacity of 72 MW in the winter season and 79 MW in the summer season with non-Federal energy supplied by other entities was allocated to preference contractors through 1989. The total capacity allocated through the 1989 summer season now is 418 MW in the winter season and 463 MW in the summer season. The total energy obligation associated with this generation capacity is 1,860 GWh/year.

2. At-Plant Capability for Projected 1990 Conditions: The third level of study effort was a long-term hydrology study using a projected 1990 system configuration and an update of the hydrothermal integration capability reflecting 1990 conditions (Task No. 2 Report, Hydrothermal Integration Capability-Study of the P-SMBP-WD, June 1983). Table 1, column (1), summarizes the results of this effort and is the basis for determining the P-SMBP-WD resource to be allocated in the post-1989 period.

B. Derivation of Fry-Ark Resources

The Fry-Ark resources available were computed by Western, based upon a 1974 Reclamation study and an updated study done in 1983 by the Fry-Ark Project Office. These studies determined average inflows available for energy production at the Mt. Elbert Powerplant.

C. Derivation of marketable Resources From Operational Integration of P-SMBP-WD and Fry-Ark Resources

Table 1 shows the at-plant and at-load energy production capability of the operationally integrated P-SMBP-WD and Fry-Ark resources. These resources, available for marketing, consist of the integrated energy production capability of LAO resources minus losses, project use, and existing special use loads.

Table 2, column (6), shows the marketable generation capacity of the operationally integrated resources. The resources thus available for marketing consist of the integrated generation capacity of LAO resources minus necessary reserves, project use and existing special use loads.

Table 3 shows the reservations of marketable long-term firm energy with capacity for new and existing contractors.

Project use and existing special use loads are quantified in tables 1 and 2 and are defined as:

Project Use

1. **P-SMBP-WD Pumps:** Pumps at Lake Granby, Willow Creek, and Flatiron operated by Reclamation, which are an integral part of the P-SMBP-WD system. Power is supplied to operate these pumps as project use under Federal Reclamation law.

2. **Burlington Northern Railroad:** A Reclamation contract, with no expiration date, for electric service for light and ventilation in Boysen Tunnel; entered into as compensation for inundation of the original tunnel by Reclamation when Boysen Dam was constructed.

3. **Colorado River Improvement Pumps:** Seven Reclamation contracts with no expiration date, for power to operate pumps used for gravity irrigation purposes along the Colorado River. These contracts were made as compensation for depletions of the

Colorado River caused by the Colorado-Big Thompson Project.

Existing Special Use

1. **Highland Hanover Irrigation District, Owl Creek Irrigation District, Upper Bluff Irrigation District:** Three Reclamation contracts which Reclamation has advised Western to treat as project use loads.

2. **Goshen Irrigation District, Midvale Irrigation District:** Two Western contracts which will not expire prior to the effective date of these criteria.

3. **U.S. Forest Service:** Two Western contracts for electric service to the Forest Service's Blue Ridge Repeater Station and to Arapahoe National Recreation Area which will not expire prior to the effective date of these Criteria.

4. **U.S. National Park Service:** A Western contract with no expiration date, for electric service to Rocky Mountain National Park.

Issued at Golden, Colorado January 17, 1986.

William H. Clagett,
Administrator.

Appendix A

TABLE 1.—ENERGY CAPABILITY WITH OPERATIONAL INTEGRATION OF P-SMBP-WD AND FRY-ARK (MWH)

	At plant energy P- SMBP-WD ¹	At plant energy Fry-Ark ²	At plant total energy	Total energy at load ³	Project and existing special use loads	Total marketable energy at load	Per- cent
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
October.....	172,400	5,957	178,357	166,423	8,464	157,960	16.9
November.....	173,800	5,617	179,417	167,430	9,479	157,951	16.9
December.....	188,700	5,542	194,242	181,288	9,215	172,073	18.5
January.....	184,500	5,504	190,004	177,329	9,668	167,661	18.0
February.....	144,500	5,429	149,929	139,879	7,492	132,387	14.2
March.....	158,200	5,429	163,629	152,683	8,173	144,510	15.5
Winter total.....	1,022,100	33,478	1,055,578	985,031	52,490	932,541	100
April.....	186,400	4,562	190,962	178,266	9,077	169,189	14.6
May.....	198,800	1,093	199,893	186,768	9,435	177,333	15.3
June.....	219,300	3,732	223,032	208,275	5,199	203,076	17.6
July.....	272,800	4,939	277,739	259,349	5,517	253,832	22.0
August.....	218,100	5,844	223,944	209,033	5,159	203,874	17.6
September.....	159,000	4,599	163,599	152,692	4,695	147,996	12.9
Summer total.....	1,254,400	24,769	1,279,169	1,194,383	39,082	1,155,300	100
Total.....	2,276,500	58,247	2,334,747	2,179,414	91,573	2,087,841	

¹ From Table 10 Task No. 2 Report. Annual energy of 80,100 Mwh has been added to column (1) figures and subsequently added to the figures in column (5). This is the load of the P-SMBP-WD pumps.

² Based on long-term hydrology study performed by Bureau of Reclamation—Fryingpan-Arkansas Project Office.

³ Total energy at load = [(col 2/1.05) + col 1]/1.07.

TABLE 2.—CAPACITY WITH OPERATIONAL INTEGRATION OF P-SMBP-WD AND FRY-ARK (MW)

	P-SMBP- WD Capacity at 90% probability	Fry-Ark capacity	Mainte- nance required ^{1,2}	Reserves required	Project and existing special use required	Marketable capacity	Per- cent maxi- mum
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
October.....	484.0	200.0	67.7	48.0	1.023	591.3	92.6
November.....	477.0	200.0	70.3	48.0	0.413	582.3	91.2
December.....	483.0	200.0	20.0	48.0	0.532	638.5	100.0
January.....	478.0	200.0	32.0	48.0	0.604	621.4	97.3
February.....	466.0	200.0	64.5	48.0	0.447	577.1	90.4
March.....	480.0	200.0	131.8	48.0	0.399	523.8	82.0
April.....	467.0	200.0	50.0	48.0	1.401	591.6	82.6

TABLE 2.—CAPACITY WITH OPERATIONAL INTEGRATION OF P-SMBP-WD AND FRY-ARK (MW)—
Continued

	P-SMBP- WD Capacity at 90% probability	Fry-Ark capacity	Mainte- nance required ^{1,2}	Reserves required	Project and existing special use required	Marketable capacity	Per- cent maxi- mum
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
May.....	497.0	200.0	115.0	48.0	2,635	555.4	77.5
June.....	517.0	200.0	23.1	48.0	3,251	666.6	93.0
July.....	557.0	200.0	13.0	48.0	3,533	* 716.5	100.0
August.....	531.0	200.0	73.9	48.0	3,266	629.8	87.9
September.....	505.0	200.0	65.6	48.0	3,223	612.2	85.4

¹ Total reserve requirement is 48 MW—half of this total required to be spinning, therefore only half, or 24 MW depletes the available water supply and only half is subtracted from the available capacity.

² In December and July, the Contractor's monthly capacity entitlement will equal its seasonal capacity entitlement; in the other months it will be the indicated percentage of the appropriate seasonal entitlement.

³ Includes no reduction for P-SMBP-WD pumps. These are operated only during offpeak hours.

TABLE 3.—RESERVATION OF RESOURCES

	Winter		Summer		Year
	Energy (MWh)	Capacity (MW)	Energy (MWh)	Capacity (MW)	Energy (MWh)
New Contractors.....	* 75,750	* 51.9	* 93,844	* 58.2	* 169,594
Existing Contractors.....	* 856,791	* 586.6	* 1,061,456	* 658.3	* 1,918,247
Totals.....	* 932,541	* 638.5	* 1,155,300	* 716.5	* 2,087,841

¹ Marketable Energy at Load from Column 6, Table 1.

² Difference of total energy reserved for existing contractors (see note 6) and total annual energy resource.

³ Marketable seasonal capacity (100% months, Table 2).

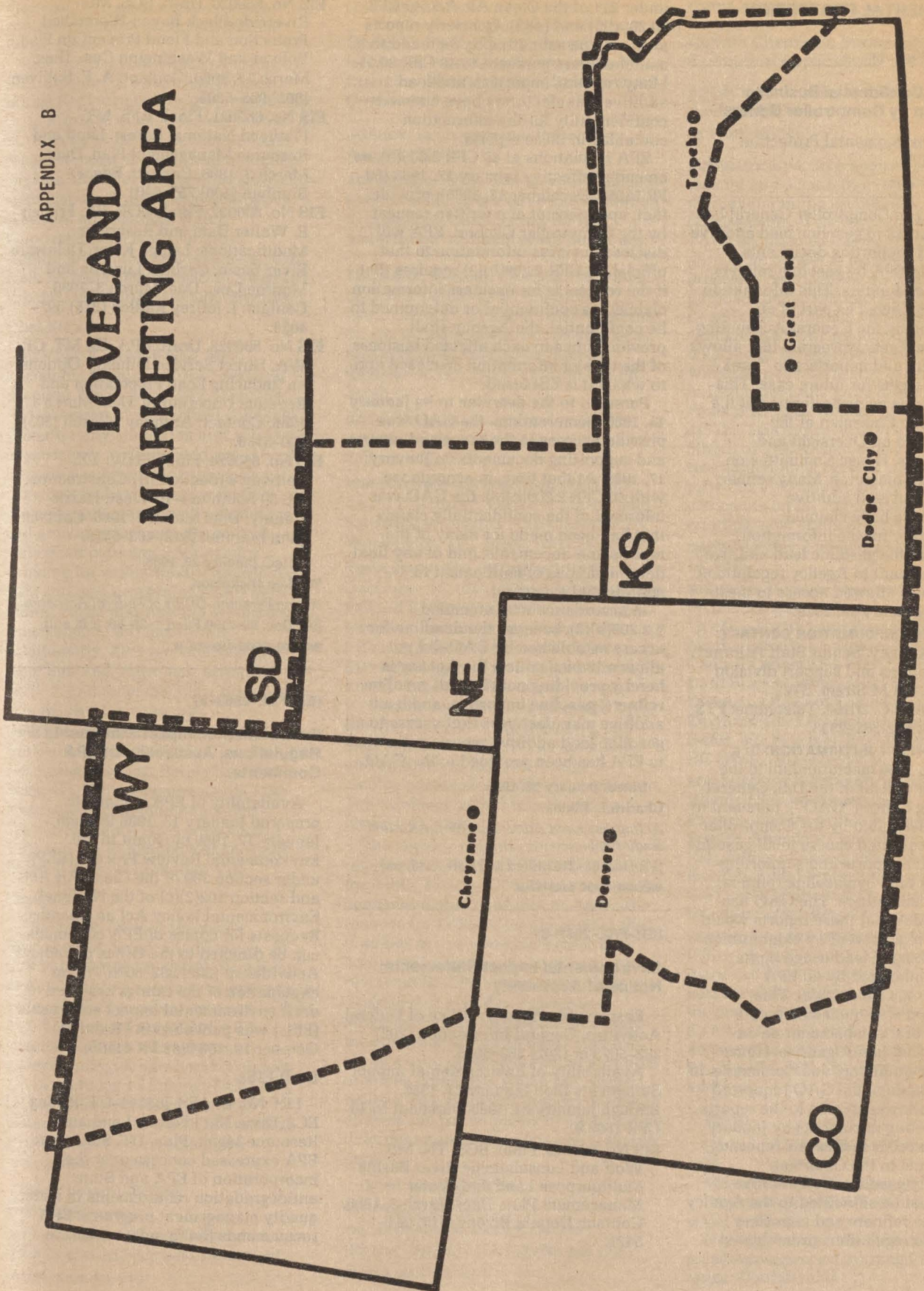
⁴ Capacity reservations for each contractor group are the product of the total seasonal capacity and the ratio of each contractor group's annual energy reservation to the total annual energy reservation.

⁵ Energy reservations for each contractor group are the product of the total seasonal energy and the ratio of each contractor group's annual energy reservation to the total annual energy reservation.

⁶ Annual energy reserved for existing contractors is equal to the energy available for allocation in 1962 from the P-SMBP-WD (1,860 GWh) plus the flowthrough energy from Fry-Ark (58,247 GWh).

BILLING CODE 6450-01-M

APPENDIX B

LOVELAND
MARKETING AREA

ENVIRONMENTAL PROTECTION AGENCY

[OAR-FRL-2964-1]

Access to Confidential Business Information by Comptroller General

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY. The Comptroller General has required access to gasoline lead additive reports and supporting documents submitted to EPA by gasoline refiners, importers, and others. This information would be reviewed as part of an examination by the General Accounting Office of an Agency program that allows such refiners and importers to "bank" lead usage rights for future use. This examination is being performed at the request of the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce. Many refiners, importers, and lead additive manufacturers have claimed confidentiality for the information contained in the gasoline lead additive reports. Pursuant to Agency regulations, the GAO was allowed access to these reports on January 17, 1986.

FOR FURTHER INFORMATION CONTACT: Robert E. Kenney, Senior Staff Attorney, Field operations and support division (EN-397F), 401 M Street, SW., Washington D.C. 20460. Telephone: FTS 382-2633 or 202-382-2633.

SUPPLEMENTARY INFORMATION: In a January 13, 1986 memorandum to the Agency, an official of the U.S. General Accounting Office ("GAO"), pursuant to authority delegated by the Comptroller General, requested access to all gasoline lead additive reports and supporting documents filed by gasoline refiners, importers, and others. The GAO has informed EPA that these reports would be reviewed as part of an examination of the banking of lead usage rights program authorized by an EPA regulation, 40 CFR 80.20(e). This examination was requested by the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce. In its memorandum, the GAO requested that it be allowed access to the reports and supporting documents by January 17, 1986, in order to meet its reporting requirements to the Chairman.

Quarterly gasoline lead additive reports must be submitted to the Agency by gasoline refiners and importers pursuant to regulations promulgated

under 211 of the Clean Air Act, 40 CFR 80.20(a)(3) and (c)(3). Quarterly reports must also be submitted by lead additive manufacturers pursuant to 40 CFR 80.25. Many refiners, importers, and lead additive manufacturers have claimed confidentiality for the information contained in these reports.

EPA regulations at 40 CFR 2.209(b), as amended effective January 17, 1986 (50 FR 51654, December 18, 1985), provide that, upon receipt of a written request by the Comptroller General, EPA will disclose business information to that official. 40 CFR 2.209(b)(2) requires that, if the request is for business information claimed as confidential or determined to be confidential, the Agency shall provide notice to each affected business of the type of information disclosed and to whom it is disclosed.

Pursuant to the deadline in its January 13, 1986 memorandum, the GAO was provided access to the requested reports and supporting documents on January 17, 1986. At that time, in accordance with 40 CFR 2.209(b)(3), the GAO was informed of the confidentiality claims that had been made for many of the reports and documents, and of any final determinations of entitlement to confidential treatment.

In accordance with amended § 2.209(b)(2), because the deadline for access established by GAO did not allow advance notice, the Agency is hereby providing notice to all gasoline refiners, gasoline importers, and lead additive manufacturers that access to all gasoline lead additive reports submitted to EPA has been provided to the GAO.

Dated: January 22, 1986.

Charles L. Elkins,
Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86-2163 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2963-8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed January 21, 1986 through January 24, 1986, pursuant to 40 CFR 1506.9.

EIS No. 860019, Final, SCS, TN, MS, Wolf and Loosahatchie River Basins Multipurpose Land and Water Management Plan, Due: March 3, 1986, Contact: Donald Bivens (615) 251-5471.

EIS No. 860020, Draft, SCS, MS, Riverside-Black Bayou Watershed Protection and Flood Prevention Plan, Bolivar and Washington Cos., Due: March 17, 1986, Contact: A. E. Sullivan (601) 965-5205.

EIS No. 860021, Final, AFS, MT, Flathead National Forest, Land and Resource Management Plan, Due: March 3, 1986, Contact: Edgar Brannon (406) 755-5401.

EIS No. 860022, Final, COE, PA, Francis E. Walter Dam and Reservoir Modifications, Lehigh River, Delaware River Basin, Carbon, Luzerne and Monroe Cos., Due: March 3, 1986, Contact: J. Jeffrey Radley (215) 597-4833.

EIS No. 860023, Draft, BPA, ID, MT, OR, WA, Direct Service Industry Options on Reducing Load Fluctuation and Revenue Uncertainty, Due: March 17, 1986, Contact: Anthony Morrell (503) 230-5136.

EIS No. 860024, Final, FHW, TX, Beltway 8 (Section III) Construction, US 59 South to I-10 West, Harris County, Due: March 3, 1986, Contact: John Inabinet (512) 482-5516.

Dated: January 28, 1986.

William Dickerson,
Acting Director, Office of Federal Activities.
[FR Doc. 86-2190 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2963-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 13, 1986 through January 17, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-AFS-J65144-UT, Rating EC2, Dixie Nat'l Forest, Land and Resource Mgmt. Plan, UT. Summary: EPA expressed concern over the incorporation of EPA and State antidegradation requirements in water quality management programs. EPA recommends that a more extensive

discussion of erosion and sediment control measures be included in the Forest Plan.

ERP No. D-FHW-E40690-FL, Rating EC2, Business US 41 Bridge/Edison Bridge Replacement, Upgrading, Market St. to Mariana Ave., Caloosahatchee, R., FL. Summary: EPA is concerned with proposed noise impacts and potential impacts on water quality (dredging and spoil disposal); and loss of mangrove, seagrass, and shallow water Caloosahatchee River habitats. Additional information is requested on wetland and noise mitigation, seagrass impacts, spoil disposal, and fisheries.

Final EISs

ERP No. F-BLM-J70002-WY, Kemmerer Resource Area, Land and Resource Mgmt. Plan, WY. Summary: EPA has several unresolved concerns. Water quality standards and any known impairments to designated uses should be addressed for the planning area. Other unresolved concerns include: Protection of water quality standards and ground water, salinity control, watershed planning, contingency planning for sulfur dioxide emissions from sour gas processing plants well flaring, range and riparian-wetland area management, and monitoring. Additionally, EPA recommends that more thorough responses are still needed, and recommends a response to help resolve the concerns.

ERP No. F-MMS-A02197-AK, 1986 Norton Basin OCS Oil and Gas Sale No. 100, Lease Offering, Bering Sea, AK. Summary: EPA recommends that the lease sale exclude the Expanded Western Deferral Area (Alternative VIII) and the Expanded Yukon Delta Deferral Area (Alternative VII).

Regulation

ERP No. R-DOE-A22104-00, Byproduct Material, Clarification, 10 CFR Part 962 (50 FR 45736). Summary: EPA objects to a regulatory approach to delineate the boundary between RCRA and the Atomic Energy Act. EPA suggests that a memorandum of understanding be developed between the Department of Energy (DOE) and EPA to delineate the regulatory boundary between the DOE and EPA jurisdictions for hazardous and radioactive wastes.

Dated: January 28, 1986.

William Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 86-2191 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2961-7]

Ocean Dumping Permit Program; Research Permit for Incineration of Chemical Wastes at Sea; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period on EPA's tentative determination to issue a research permit for the incineration of chemical wastes at sea.

SUMMARY: EPA is extending the public comment period on its tentative determination to issue a research permit for the incineration of chemical wastes that was published in the *Federal Register* on December 16, 1985. (50 FR 51360.)

DATE: The comment period on EPA's tentative determination is extended to February 15, 1986.

FOR FURTHER INFORMATION CONTACT: David P. Redford, Office of Marine and Estuarine Protection (WH-556M), EPA, Washington, DC, 20460, (202) 755-9231.

SUPPLEMENTARY INFORMATION: On December 16, 1985, EPA published in the *Federal Register* for public comment a tentative determination to issue a research permit to Chemical Waste Management, Inc., Oak Brook, Illinois, for the *Vulcanus II* to transport and incinerate materials as authorized by the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, and announced public hearings to receive comments on this determination. The comment period was to end on January 31, 1986.

The Agency recently received a request from the Gulf Coast Coalition for Public Health (GCCPH) to extend the comment period to March 15, 1986. The reasons for GCCPH's request were the possible delays resulting from the holiday season. The Agency has reviewed GCCPH's request and has decided that a 45-day extension is unwarranted but has agreed to extend the comment period 15 days. This will allow a total of 60 days for the submittal of public comments which the Agency believes is a sufficient amount of time to address the issues raised by its tentative determination to issue this one research permit.

Dated: January 13, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 86-1880 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59210; FRI-2962-9]

Certain Chemicals Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacture notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for an exemption, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: February 18, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59210]" and the specific TME number should be sent to: Document Control Officer (TS-793), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 86-10

Close of Review Period: March 6, 1986.

Manufacturer. Confidential.
Chemical. (G) Modified, maleated metal resinate.

Use/Production. (G) Industrial publication gravure printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers.
Environmental Release/Disposal. Less than 0.2 kg/batch released to water with 20 kg/batch to land. Disposal by sanitary landfill.

T 86-11

Close of Review Period: March 8, 1986.
Manufacturer. Confidential.
Chemical. (G) Modified, maleated metal resinate.
Use/Production. (G) Industrial publication gravure printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers.
Environmental Release/Disposal. Less than 0.2 kg/batch released to water with 20 kg/batch to land. Disposal by sanitary landfill.

Dated: January 24, 1986.
V. Paul Fuschini,
Acting Director, Information Management Division.
 [FR Doc. 86-2047 Filed 1-30-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59750; FRL-2963-1]**Certain Chemicals Premanufacture Notices**

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMNs and provides a summary.

DATES: Close of Review Period: Y 86-58 and 86-59; February 6, 1986. Y86-60; February 11, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical

Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-58

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic copolymer.
Use/Production. (G) Polymer used in product formulation having a partially contained use. Prod. range: 5,000-13,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-59

Manufacturer. Bostwick Division of USM Corporation.
Chemical. (G) Polyamide.
Use/Production. (G) Adhesive, open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Environmental Release/Disposal. No release.

Y 86-60

Manufacturer. Confidential.
Chemical. (S) Polymer of neopentyl glycol, adipic acid, trimethylol ethane, dimethyl propionic acid and phthalic anhydride.
Use/Production. (G) Polymer for industrial baked coatings. Prod. range: 108,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da.
Environmental Release/Disposal. Release to air and landfill. 20 kg/batch incinerated.

Dated: January 24, 1986.
V. Paul Fuschini,
Acting Director, Information Management Division.
 [FR Doc. 86-2048 Filed 1-30-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51608; FRL-2963-2]**Certain Chemicals Premanufacture Notices**

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-eight PMNs and provides a summary of each.

DATES: Close of Review Period: P 86-394, 86-395, 86-396, 86-397, 86-398, 86-399, 86-400, 86-401, 86-402, 86-403, and 86-404, April 19, 1986. P 86-405, 86-406, 86-407, 86-408, 86-409, 86-410, 86-411, 86-412, 86-413, 86-414, 86-415, and 86-416, April 20, 1986. P 86-417, 86-418, 86-419, 86-420, 86-421, 86-422, 86-423, 86-424, 86-425, 86-426, 86-427, 86-428, 86-429, 86-430 and 86-431, April 21, 1986.
 Written comments by: P 86-394, 86-395, 86-396, 86-397, 86-398, 86-399, 86-400, 86-401, 86-402, 86-403 and 86-404, March 20, 1986. P 86-405, 86-406, 86-407, 86-408, 86-409, 86-410, 86-411, 86-412, 86-413, 86-414, 86-415, and 86-416, March 21, 1986. P 86-417, 86-418, 86-419, 86-420, 86-421, 86-422, 86-423, 86-424, 86-425, 86-426, 86-427, 86-428, 86-429, 86-430 and 86-431, March 22, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51608]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public

Reading Room E-107 at the above address.

P 86-394

Importer. Naarden International.
Chemical. (S) 2-ethoxy-4-methyl phenol.

Use/Import. (S) Consumer fragrance ingredient for use in fragrance compounds. These will be used to perfume a variety of consumer end products such as soaps, detergents, household products, and cosmetics. Import range: Confidential.

Toxicity Data. Acute oral: 1.73 ml/kg; Irritation: Skin—Moderate, Eye—Severe; Ames test: Non-mutagenic; Skin sensitization: (Maximization test) Sensitizer, (Buehler test) Non-sensitizer.

Exposure. Use: dermal, a total of 7 workers, up to 5 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. 10 to 50 parts per million (ppm) released to air.

P 86-395

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Aromatic polyamide.

Use/Production. (G) Membranes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-396

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Aromatic polyamide.

Use/Production. (G) Membranes.

Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-397

Importer. Confidential.

Chemical. (G) Substituted sodium benzoate.

Use/Import. (G) Intermediate. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 gm/kg; Irritation: Skin—Irritant, Eye—Irritant.

Exposure. Processing: dermal, a total of 10 workers, up to 1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

P 86-398

Manufacturer. Confidential.

Chemical. (G) 1-(carbomono-cyclicaminoalkylene) polysubstituted heterocycle.

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Ames test: Negative.
Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. 8 kg/batch released with 2 kg/batch to water. Disposal by incineration and biological treatment.

P 86-399

Manufacturer. Confidential.

Chemical. (G) N-substituted dialkylenetriamine.

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Ames test: Negative.
Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. 8 kg/batch incinerated. Disposal by incineration.

P 86-400

Manufacturer. Confidential.

Chemical. (G) Dialkylenetriamine

Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Ames test: Negative.
Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. 11 kg/batch incinerated.

P 86-401

Manufacturer. Confidential.

Chemical. (G) Modified, maleated metal resinate.

Use/Production. (S) Industrial publication gravure printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers.

Environmental Release/Disposal. Less than 0.2 kg/batch released to water with 20 kg/batch to land.

P 86-402

Manufacturer. Confidential.

Chemical. (G) Trisubstituted triazine.

Use/Production. (G) Stabilizer for polymers. Prod. range: Confidential.

Toxicity Data. Acute oral: Male—1.05 g/kg, Female—1.35 g/kg, Combined—1.23 g/kg; Acute dermal: <2.0 g/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames test: Negative; Skin sensitizer: Not a sensitizer; LC⁵⁰ 96 hr (Freshwater fish): <1,000 mg/l; LC⁵⁰ 96 hr (bluegill): <1,000 mg/L.

Exposure. Manufacture and processing: dermal.

Environmental Release/Disposal. 1 kg/batch released to water. Disposal by incineration and biological treatment.

P 86-403

Manufacturer. Confidential.

Chemical. (G) Modified acrylic terpolymer.

Use/Production. (G) Thickener for aqueous mixtures, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 5 workers.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 86-404

Manufacturer. Confidential.

Chemical. (G) Modified acrylate terpolymer.

Use/Production. (G) Thickening compound for aqueous systems, dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 5 workers.

Environmental Release/Disposal. Disposal by POTW.

P 86-405

Manufacturer. Products Research & Chemical Corporation.

Chemical. (G) Mercaptan terminated polyether, polythioether, polysulfide.

Use/Production. (S) Industrial polymer for sealants and adhesives. Prod. range: 140,000–900,000 kg/yr.

Toxicity Data. Acute oral: <5g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Negative.

Exposure. Manufacture and processing: dermal, a total of 47 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 0.7 to 1.5 kg/batch released to land. Disposal by landfill.

P 86-406

Manufacturer. Confidential.

Chemical. (G) Water reducible acrylic copolymer alkyd.

Use/Production. (S) Water reducible industrial air-dry enamels. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers.

Environmental Release/Disposal. Confidential.

P 86-407

Manufacturer. Confidential.

Chemical. (G) Site-limited alkyd resin.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers.

Environmental Release/Disposal. Confidential.

P 86-408

Manufacturer. Hanna Chemical Coatings Corporation.

Chemical. (G) Silicone modified polyester.

Use/Production. (S) Industrial polyester vehicle for use in pigmented decorative coatings. Prod. range: 12,000-48,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 8 workers, up to 2 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. .35 to 1.35 kg/batch released to air with 1 to 9.4 kg/batch to land. Disposal by approved landfill.

P 86-409

Manufacturer. Confidential.

Chemical. (G) Substituted arylalkylene dicarboxylate.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Acute dermal: >2,000 mg/kg; Skin sensitization: Low.

Exposure. Manufacture, processing and use: dermal.

Environmental Release/Disposal. Less than 2 to less than 55 kg/batch released to water. Disposal by incineration and biological treatment.

P 86-410

Importer. Confidential.

Chemical. (S) Reaction-product of N,N'-ditallowalkylaminopropylethylenediamine with propylene oxide and ethylene oxide.

Use/Import. (G) Dispersing agent. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 86-411

Manufacturer. PMC Specialties Group, Inc.

Chemical. (G) Substituted alkyl benzotriazole.

Use/Production. (S) Commercial metal corrosion inhibitor for copper and alloys. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-412

Manufacturer. PMC Specialties Group, Inc.

Chemical. (G) Substituted alkyl benzotriazole.

Use/Production. (S) Commercial metal corrosion inhibitor for copper and alloys. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-413

Manufacturer. Rexnord.

Chemical. (G) Acrylic oligomeric copolymer.

Use/Production. (S) Plasticizers for sealants for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal.

Environmental Release/Disposal. 0.5 to 10 kg/batch released to land. Disposal by licensed burial.

P 86-414

Manufacturer. Hach Company.

Chemical. (S) 1-2'-hydroxy-5'-sulfophenylazo)-2-hydroxy-naphthalene-3,6-disulfonic acid.

Use/Production. (S) Industrial reagent for hardness analysis in water of brine. Prod. range: 100-300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 workers, up to 8 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. Release to water. Disposal by POTW.

P 86-415

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified Acrylic polymer.

Use/Production. (G) Coatings additive in open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg;

Acute dermal: >5.0 g/kg; Irritation:

Skin—Non-irritant, Eye—Irritant.

Exposure. Manufacture: dermal, a total of 48 workers.

Environmental Release/Disposal. Release to land. Disposal by approved landfill.

P 86-416

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified Acrylic polymer.

Use/Production. (G) Coatings additive in open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg;

Acute dermal: >5.0 g/kg; Irritation:

Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal, a total of 48 workers.

Environmental Release/Disposal. Release to land. Disposal by approved landfill.

P 86-417

Importer. Confidential.

Chemical. (G) Vinylsiloxano-organo-platinum complex.

Use/Import. (S) Industrial catalyst for curing silicone polymers. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 4 workers, up to 1 hr/da.

Environmental Release/Disposal. 1.0 kg released. Disposal by approved landfill.

P 86-418

Manufacturer. The Dow Chemical Company.

Chemical. (G) Amide substituted imidazolidines.

Use/Production. (S) Industrial corrosion inhibitor for downhole petroleum or geothermal production. Prod. range: Confidential.

Toxicity Data. Acute oral: >4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Eye—Slight to severe, Skin—Slight; Inhalation: No adverse effects.

Exposure. Manufacture: dermal, a total of 13 workers.

Environmental Release/Disposal. Release to air. Disposal by incineration.

P 86-419

Manufacturer. The Dow Chemical Company.

Chemical. (G) Amide substituted imidazolidines.

Use/Production. (S) Industrial corrosion inhibitor for downhole petroleum or geothermal production. Prod. range: Confidential.

Toxicity Data. Acute oral: >4,000 mg/kg; Acute dermal: >2,000 mg/kg;

Irritation: Eye—Slight to severe, Skin—slight; Inhalation: No adverse effects.

Exposure. Manufacture: dermal, a total of 13 workers.

Environmental Release/Disposal. Release to air. Disposal by incineration.

P 86-420

Manufacturer. The Dow Chemical Company.

Chemical. (G) Amide substituted imidazolidines.

Use/Production. (S) Industrial corrosion inhibitor for downhole petroleum or geothermal production. Prod. range: Confidential.

Toxicity Data. Acute oral: >4,000 mg/kg; Acute dermal: >2,000 mg/kg;

Irritation: Eye—Slight to severe; Skin—Slight; Inhalation: No adverse effects.

Exposure. Manufacture: dermal, a total of 13 workers.

Environmental Release/Disposal. Release to air. Disposal by incineration.

P 86-421

Manufacturer. Confidential.
Chemical. (G) Modified, maleated metal resinate.

Use/Production. (S) Industrial publication gravure printing inks. Prod. range: Confidential.

Toxicity Data. No data substance submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/da.

Environmental Release/Disposal. Less than 0.2 kg/batch released to water with 20 kg/batch to land. Disposal by sanitary landfill.

P 86-422

Importer. Confidential.

Chemical. (G) Modified polycarbonate.

Use/Import. (S) Industrial plastic material for injection molding and sheet extrusion. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 3-5 workers.

Environmental Release/Disposal. Disposal by approved landfill.

P 86-423

Manufacturer. Confidential.

Chemical. (S) Mixed thiodiphenol oligomers.

Use/Production. (G) Anti-foulant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-424

Manufacturer. Confidential.

Chemical. (S) Mixed thiodiphenol oligomers sodium salts.

Use/Production. (G) Anti-foulant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-425

Manufacturer. Confidential.

Chemical. (S) Mixed thiodiphenol oligomers ammonium salts.

Use/Production. (G) Anti-foulant. Prod. range: Confidential.

Toxicity Data. Acute oral: Male—9.85 gm/kg, female—6.50 gm/kg; Acute dermal: >2.0 gm/kg; Irritation: Skin—Nonirritant, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-426

Importer. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene-polymer A.

Use/Import. (S) Commercial and consumer molded parts for electronic, automotive and construction applications. Import range: 40,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-427

Importer. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene-polymer B.

Use/Import. (S) Commercial and consumer molded parts for electronic, automotive and construction applications. Import range: 10,000–60,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-428

Import. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene-polymer C.

Use/Import. (S) Commercial and consumer molded parts for electronic, automotive and construction applications. Import range: 10,000–60,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-429

Import. Hitachi Chemical Company America, Ltd.

Chemical. (G) Poly(ether-ester-amide).

Use/Import. (S) Site-limited and industrial insulation varnish for semiconductor. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-430

Import. Hitachi Chemical Company America, Ltd.

Chemical. (G) Poly(ether silicone amide).

Use/Import. (S) Site-limited and industrial insulation varnish for semiconductor. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-431

Import. Hitachi Chemical Company America, Ltd.

Chemical. (G) Poly(ether amide).

Use/Import. (S) Site-limited and industrial insulation varnish for semiconductor. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated January 24, 1986.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 86-2049 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51607; FRL-2960-2]

Certain Pesticides and Toxic Substances; Receipt of Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(c)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-two PMNs and provides a summary of each.

DATES: Close of Review Period: P 86-372, 86-373 and 86-374 April 8, 1986; P 86-375, and 86-376 April 11, 1986; P 86-377, 86-378, 86-379, 86-380, 86-381, 86-382, 86-383, and 86-384, April 12, 1986; P 86-385, 86-386, 86-387, and 86-388 April 13, 1986; P 86-389, 86-390, 86-391, 86-392, and 86-393 April 14, 1986.

Written comments by: P 86-372, 86-373 and 86-374 March 9, 1986; P 86-375, and 86-376 March 12, 1986; P 86-377, 86-378, 86-379, 86-380, 86-381, 86-382, 86-383, and 86-384 March 13, 1986; P 86-385, 86-386, 86-387, and 86-388 March 14, 1986; P 86-389, 86-390, 86-391, 86-392, and 86-393 March 15, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51607]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential

Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 86-372

Importer. Kay-Fries, Inc.
Chemical. (S) Ethanol, potassium salt.
Use/Import. (S) Industrial chemical manufacturing intermediate. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: inhalation, a total of 1 worker, up to 1 hr/da, up to 1 da/yr, 4 da/yr.
Environmental Release/Disposal. No data submitted.

P 86-373

Importer. Confidential.
Chemical. (G) Methylene bis (substituted benzene).
Use/Import. (G) Destructive use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-374

Manufacturer. Confidential.
Chemical. (G) Blocked isocyanate.
Use/Production. (s) Wire enamel. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-375

Importer. Confidential.
Chemical. (G) Dialkylpentasulphide.
Use/Import. (S) Industrial extreme pressure additive for metal working oil. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal.
Environmental Release/Disposal. No data submitted.

P 86-376

Manufacturer. Confidential.
Chemical. (G) Caprolactam-blocked TDI prepolymer.
Use/Production. (S) Industrial crosslinker for one-component polyurethane coatings. Prod. range: 300,000-365,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 45 workers, up to 6 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. 0.1 to 90 kg/batch released to air with 10 kg/batch to water. Disposal by incineration and on site biological treatment plant.

P 86-377

Manufacturer. E.I. du Pont de Nemours & Company, Inc.
Chemical. (G) Monosubstitutedalkylbenzenediazonium chloride.
Use/Production. (S) Site-limited intermediate. Prod range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-378

Importer. Confidential.
Chemical. (G) Reaction product of urea, formaldehyde, dialdehyde and diol.
Use/Import. (S) Industrial textile auxiliary. Import range: 25,000-250,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: dermal, a total of 6 workers, up to 100 hrs each.
Environmental Release/Disposal. Trace release.

P 86-379

Importer. Confidential.
Chemical. (G) Oxirane polymer with dialkylcarbomonocycloxy substituted propanol.
Use/Import. (S) Industrial emulsifier. Import range: 1,000-3,000 kg/yr.
Toxicity Data. Acute oral: 4,060 mg/kg; Irritation: Skin—Slight; Eye—Non-irritant; LC₅₀ 96 hr (Rainbow trout: < 220 mg/L).
Exposure. Processing: dermal.
Environmental Release/Disposal. Little release.

P 86-380

Manufacturer. American Hoechst Corporation.
Chemical. (S) 2-Naphthalenediazonium, 1-sulfo-6-(2-sulfooxyethyl)sulfonyl-, hydrogen sulfate.

Use/Production. (S) Site-limited dye intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, a total of 3 workers, up to 2 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. 150 kg/batch released to water. Disposal by biological waste treatment.

P 86-381

Importer. Kay-Fries, Inc.
Chemical. (G) Polyester resin of aryl alkane dicarboxylic acids plus alkane diols.
Use/Import. (S) Industrial metal coating. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Unknown.
Environmental Release/Disposal. Unknown.

P 86-382

Manufacturer. The Dow Chemical Company.
Chemical. (G) Modified trisphenol epoxy novolac.
Use/Production. (S) Industrial manufacture of structural composite, transfer molding of electronic parts and manufacture of printed circuit board. Prod. range: Confidential.
Toxicity Data. Acute dermal: < 2,000 mg/kg; Skin—Non-irritant, Eye—Very slight.
Exposure. Manufacture: dermal, a total of 10 workers.
Environmental Release/Disposal. Up to 1 lb sample/batch released to air and land with < 0.01 kg/batch to water. Disposal by incineration, landfill and navigable waterway after treatment.

P 86-383

Manufacturer. The Dow Chemical Company.
Chemical. (G) Modified trisphenol novolac.
Use/Production. (S) Site-limited intermediate for epoxy resin. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, a total of 5 workers.

Environmental Release/Disposal. Release to air, water and land. Disposal by navigable waterway after treatment, incineration and landfill.

P 86-384

Manufacturer. Confidential.
Chemical. (G) Substituted aldehyde.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 42 workers, up to 4 hrs/da, up to 125 da/yr.

Environmental Release/Disposal. Release to air, water, and land. Disposal by landfill, or burned in accordance with the stringent requirements of the Clean Air Act, Clean Water Act and/or Resource Conservation and Recovery Act (RCRA).

P 86-385

Manufacturer. Confidential.

Chemical. (G) Acrylic ester.

Use/Production. (S) Used in tandem with other vehicles in the manufacture of inks. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Mild.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-386

Manufacturer. Confidential.

Chemical. (G) Modified acrylic ester.

Use/Production. (S) Used in tandem with other vehicles in the manufacture of inks. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-387

Manufacturer. Confidential.

Chemical. (G) Modified acrylic ester.

Use/Production. (S) UV cure product to be used in making inks. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Moderate.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-388

Manufacturer. Confidential.

Chemical. (G) Polyurethane prepolymer.

Use/Production. (G) Wood coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-389

Manufacturer. Confidential.

Chemical. (G) Azoxybis[(substituted phenyl) azo]bis[substituted naphthalenesulfonic acid, salt].

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 86-390

Manufacturer. Confidential.

Chemical. (G) Azoxybis[(substituted phenyl)azo]bis[substituted naphthalenesulfonic acid, salt].

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 86-391

Manufacturer. Confidential.

Chemical. (G) Azoxybis[(substituted phenyl)azo]bis[substituted naphthalenesulfonic acid, salt].

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 86-392

Manufacturer. Velsicol Chemical Corporation.

Chemical. (S) Methyl carbamic acid, phenyl ester.

Use/Production. (S) Site-limited intermediate in the synthesis of another organic compound. Prod. range: Confidential.

Toxicity Data. Acute oral: 540 mg/kg.

Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 1 hr/da, up to 295 da/yr.

Environmental Release/Disposal. Confidential.

P 86-393

Manufacturer. Confidential.

Chemical. (G) Poly acrylate.

Use/Production. (G) Polymer for industrial finishing. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hrs/da, up to 7 da/yr.

Environmental Release/Disposal. 20 kg/batch released to air and landfill. Disposal by publicly owned treatment works (POTW) and incineration.

Dated: January 20, 1986.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 86-1680 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59749; FRL-2959-9]

Certain Pesticides and Toxic Substances; Receipt of Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt for four such PMN and provides a summary.

DATES: Close of Review Period:

Y 86-54—January 30, 1986.

Y 86-55 and 86-56—February 3, 1986.

Y 86-57—February 5, 1986.

FOR FURTHER INFORMATION CONTACT:

Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-54

Importer. Kay-Fries, inc.

Chemical. (G) Polyester resin of an aryl dicarboxylic acid and alkane diol.

Use/Import. (S) Industrial metal coating Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Unknown.

Environmental Release/Disposal. Unknown.

Y 86-55

Importer. BASF Systems Corporation.

Chemical. (G) Hydroxy functional polyurethane.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted

Environmental Release/Disposal. No data submitted.

Y 86-56

Manufacturer. S.C. Johnson & Son, Inc.

Chemical. (G) Amine salt of styrene acrylic polymer.

Use/Production. (G) A resin solution in the form of the monoethanol amine salt for formulating aqueous flexographic inks and overprint varnishes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

Y 86-57

Manufacturer. Confidential.

Chemical. (G) Acrylate copolymer.

Use/Production. (G) Dispersive water treatment. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW. Dated: January 20, 1986

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 86-1681 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-31-M

EXPORT-IMPORT BANK

Use of Penalty Mail in the Location and Recovery of Missing Children—S. 1195, Pub. L. 99-87, 99 Stat. 290 (August 9, 1985)

Notice is hereby given by the Export-Import Bank of the United States (Eximbank) that because Eximbank does not use penalty mail in its operations, Eximbank will not publish regulations required under Pub. L. 99-87 and the implementing guidelines established by the Justice Department's Office of Juvenile Justice and Delinquency Prevention, which will govern the use of penalty mail for specified purposes. Eximbank exclusively uses prepaid mail that does not carry penalty indicia, pursuant to the Domestic Mail Manual, Section 137.23.

Hart Fessenden,
General Counsel.

[FR Doc. 86-2103 Filed 1-30-86; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction and Waiting Period Terminated Effective

- (1) 86-0405—Fieldcrest Mills, Inc.'s proposed acquisition of voting securities of Cannon Mills Company, (David H. Murdock, UPE), January 10, 1986;
- (2) 86-0441—Bower Industries, plc's proposed acquisition of voting securities of Star-Tex Corporation, (Laitala Family Investment, Inc., UPE), January 10, 1986;
- (3) 86-0492—adidas Sportschuhfabriken Adi Dassler Stifting & Co. KG's proposed acquisition of assets of Closs Co., Inc., (Clossco, UPE), January 10, 1986;
- (4) 86-0488—AB Electrolux's proposed acquisition of assets of Medford Corporation, (The 1964 Simmons Trust, UPE), January 13, 1986;
- (5) 86-0494—The Friday Trust's proposed acquisition of voting securities of Banner Industries, Inc., January 13, 1986;
- (6) 86-0500—TLC Associates' proposed acquisition of voting securities of Minstar, Inc., January 13, 1986;
- (7) 86-0524—Federal—Mogul Corporation's proposed acquisition of voting securities of Carter Automotive Company, (Carl Icahn, UPE), January 13, 1986;
- (8) 86-0530—Grow Group, Inc.'s proposed acquisition of voting securities of Perrigo Company, January 13, 1986;
- (9) 86-0538—Tesoro Petroleum Corporation's proposed acquisition of voting securities of NRG Gathering Company, January 13, 1986;
- (10) 86-0495—Viacom International, Inc.'s proposed acquisition of assets of KMOX-TV in St. Louis, Missouri, (CBS, Inc., UPE), January 14, 1986;
- (11) 86-0491—FoxMeyer Corporation's proposed acquisition of voting securities of

Jefferson Drug Company, (The Procter Company, UPE), January 15, 1986;

(12) 86-0533—Imperial Group plc's proposed acquisition of voting securities of United Biscuits (Holdings) plc, January 15, 1986;

(13) 86-0522—Getty Petroleum Corporation's proposed acquisition of voting securities of Aero Oil Company, (Phillips Petroleum Company, UPE), January 16, 1986;

(14) 86-0554—Ivaco Inc.'s proposed acquisition of voting securities of Canon Inc., January 16, 1986;

(15) 86-0476—Archer-Daniels-Midland Company's proposed acquisition of voting securities of Krause Milling Company, January 17, 1986;

(16) 86-0509—Red Apple Supermarkets, Inc.'s (John Catimatidis, UPE) proposed acquisition of voting securities of Bay Pride, Inc. and assets of Pantry Pride, Inc., January 17, 1986;

(17) 86-0510—Sumitomo Metal Mining Co., Ltd.'s proposed acquisition of assets of Phelps Dodge Corporation, January 17, 1986;

(18) 86-0512—Sumitomo Metal Mining Co., Ltd.'s proposed acquisition of voting securities of Sumitomo Metal Mining Arizona, Inc., (Sumitomo Metal Mining Co., Ltd., UPE), January 17, 1986;

(19) 86-0501—TLC Associates proposed acquisition of voting securities of Brae Corporation, January 21, 1986;

(20) 86-0511—Edwin T. McBirney's proposed acquisition of voting securities of KDI Corporation, January 21, 1986.

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC. 20580 (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-2150 Filed 1-30-86; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting

period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective—
(1) 86-0208—Peerless Importers, Inc.'s proposed acquisition of assets of Knickerbocker Liquors Corporation, Knickerbocker Warehousing Corporation Mohawk Valley Merchandisers Corporation and Erie Liquor Company, Inc., (Gilbert Rosenberg, UPE).	Jan. 2, 1986.
(2) 86-0391—Argyll Group PLC's proposed acquisition of voting securities of The Distillers Company PLC.	Do.
(3) 86-0424—Century Communications Corp.'s proposed acquisition of assets of Group W Cable, Inc., (Westinghouse Electric Corporation, UPE).	Do.
(4) 86-0433—Commercial Shearing, Inc.'s proposed acquisition of voting securities of MIN Specialty Materials, Inc., (Minstar, Inc., UPE).	Do.
(5) 86-0472—GATX Corporation's proposed acquisition of assets of Itel's Portfolio Management Division, (Itel Corporation, UPE).	Do.
(6) 86-0474—Heritage Communications, Inc.'s proposed acquisition of voting securities of Gill Industries, Inc., (Allen T. Gilliland and Gloria R. Gilliland, UPE's).	Do.
(7) 86-0480—L.B. Foster Company's proposed acquisition of assets of Hardware and Banking Equipment Segment of Kidde, (Kidde, Inc., UPE).	Do.
(8) 86-0505—Parker Penn Limited's proposed acquisition of assets of Parker Penn Company.	Jan. 3, 1986.
(9) 86-0486—American Financial Corporation's proposed acquisition of voting securities of The Circle K Corporation.	Jan. 6, 1986.
(10) 86-0487—The Albert Fisher Group PLC's proposed acquisition of voting securities of The Ziff Company, (Albert M. Tapper and Charles N. Tapper, UPE).	Do.
(11) 86-0397—James River Corporation's proposed acquisition of assets of subsidiaries of Preco Corporation, (Joseph H. Torras, UPE).	Jan. 7, 1986.
(12) 86-0398—Joseph H. Torras' proposed acquisition of voting securities of James River Corporation of Virginia.	Do.
(13) 86-0455—Continental Telecom Inc.'s proposed acquisition of assets of Centel Supply Company, (Centel Corporation, UPE).	Do.
(14) 86-0468—LLC Corporation's proposed acquisition of voting securities of Sea-Land Corporation.	Do.
(15) 86-0473—Envirodyne Industries, Inc.'s proposed acquisition of assets related to Union Carbide Corporation's film packaging business, the assets include the voting securities of three foreign companies, (Union Carbide Corporation, UPE).	Do.
(16) 86-0240—Proposed formation of a joint venture named Lincoln National Health Care Insurance Co. by United States Health Care Systems, Inc. and Lincoln National Corp.	Jan. 8, 1986.
(17) 86-0454—Proposed formation of a joint venture named Lincoln National Health Care Insurance Company by United States Health Care Systems, Inc. and Lincoln National Corporation.	Do.
(18) 86-0498—Cummins Engine Co., Inc.'s proposed acquisition of assets of Koppers Company, Inc.	Do.
(19) 86-0503—Selmer Sande Inc.'s (Erik Sande, UPE) proposed acquisition of voting securities of E.W. Howell Co., Inc.	Do.
(20) 86-0446—MFC, Inc.'s voting trust of assets of Cox Cable Yakima, (Cox Enterprises, Inc., UPE).	Jan. 9, 1986.
(21) 86-0477—Canberra Industries, Inc.'s proposed acquisition of voting securities of Packard Instrument Company, Inc., Packard Instrument International S.A. and Packard Instrument B.V. (United Technologies Corporation, UPE).	Do.
(22) 86-0478—Hanson Trust PLC's proposed acquisition of voting securities of Imperial Group.	Jan. 9, 1986.

Transaction	Waiting period terminated effective—
(23) 86-0490—Tyco Laboratories, Inc.'s proposed acquisition of assets of Columbia, PA Foundry of ITT Grinnell Corporation, Manufacturing and Supply Division, (ITT Corporation, UPE).	Do.
(24) 86-0499—Empire of America Federal Savings Bank's proposed acquisition of voting securities of Relocation Realty Service, (Control Data Corp., UPE).	Do.
(25) 86-0517—Dominion Resources, Inc.'s proposed acquisition of assets of PEPCO's service territory in Virginia, (Potomac Electric Power Company, UPE).	Do.

For further information contact: Sandra M. Peay, Legal Technician, Premerger Notification Officer, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-2151 Filed 1-30-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0003]

Corometrics Medical Systems, Inc.; Premarket Approval of Corometrics® Neotrak™ 515 Neonatal Monitor With tcPCO₂ Capability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application of Corometrics Medical Systems, Inc., Wallingford, CT, for premarket approval, under the Medical Device Amendments of 1976, of the Corometrics® Neotrak™ 515 Neonatal Monitor With tcPCO₂ capability. After reviewing the recommendation of the Anesthesiology and Respiratory Therapy Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petition for administrative review by March 3, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petition for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael S. Gluck, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: On August 7, 1984, Corometrics Medical Systems, Inc., Wallingford, CT 06492-0333, submitted to CDRH an application for premarket approval of the Corometrics® Neotrak™ 515 Neonatal Monitor With tcPCO₂ capability. The device is a transcutaneous PCO₂ (tcPCO₂) sensor and circuitry. The device is indicated for use as a trend monitor for carbon dioxide tension at the skin surface (tcPCO₂) of neonates and infants as an adjunct to arterial PCO₂ measurements. The Corometrics® Neotrak™ 515 Neonatal Monitor with electrocardiogram, respiration rate, heart rate, blood pressure, temperature, and transcutaneous oxygen monitor capabilities, but without the tcPCO₂ capability, previously has been determined to be substantially equivalent to a preamendments device.

On December 4, 1984, the Anesthesiology and Respiratory Therapy Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 6, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Michael S. Gluck (HFZ-430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of CDRH's action by an independent

advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 3, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: January 23, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-2111 Filed 1-30-86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program; Announcement of Completed Short-term Toxicology Studies on Seven Chemicals; Request for Comments

As part of an effort to inform the public and allow interested parties to comment and provide information on chemicals prior to designing of studies for long-term toxicology and carcinogenesis studies, the National Toxicology Program (NTP) will routinely announced in the Federal Register the list of chemicals for which short-term toxicology studies have been completed.

Short-term toxicology studies on the chemicals listed in this announcement

have been completed and the National Institute of Environmental Health Sciences (NIEHS)/National Toxicology Program (NTP) is in the process of evaluating the results. A decision on whether additional studies including long-term toxicology and carcinogenicity studies are needed will soon be made by the NTP. If you have relevant information (such as current production, use pattern, exposure levels, toxicological data) to share with the NTP on any of these chemicals, please contact the responsible NTP Scientist within 30 days of the appearance of this announcement by telephone or by mail to: NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709. The information provided will be considered by the NTP while determining which chemicals require additional studies and in designing these studies.

1. *9-Aminoacridine Hydrochloride* (134-50-9): 14-day dermal, 14-day feed, and 90-day feed studies in Fischer 344 rats and B6C3F₁ mice. Contact Person: Dr. W. Eastin, Telephone # 919-541-7941.

2. *Benzethonium Chloride* (121-54-0): 14-day and 90-day dermal in Fischer 344 rats and B6C3F₁ mice. Contact Person: Dr. W. Eastin, Telephone 919-541-7941.

3. *Bromobenzene* (108-86-1): 4-day dermal, 4-day inhalation, 90-day dermal and 90-day gavage in Fischer 344 rats and B6C3F₁ mice. Contact Person: Dr. J. Roycroft, Telephone # 919-541-3627.

4. *Butyl Benzyl Phthalate* (85-68-7): 180D-day feed study in male Fischer 344 rats. Contact Person: Dr. E. Rauckman, Telephone #919-541-7981.

5. *Codeine* (76-57-3): 14-day and 90-day feed studies in Fischer 344 rats and B6C3F₁ mice. Contact Person: Dr. J. Dunnick, Telephone # 919-541-4811.

6. *D-Alpha-Tocopheryl Acetate* (58-95-7): 90-day gavage in Sprague-Dawley and Fischer 344 rats. Contact Person: Dr. K. Abdo, Telephone #919-541-7819.

7. *Tricresyl Phosphate* (1330-78-5): 14-day gavage, 14-day feed, 90-day gavage, and 90-day feed in Fischer 344 rats and B6C3F₁ mice. Contact Person: Dr. R. Irwin, Telephone #919-541-3340.

Please submit all comments and suggestions on chemical(s) by telephone or by mail to the responsible scientist (listed above) within 30 days of publication of this notice. Any submissions received after the above data will be accepted and utilized if possible.

Dated: January 23, 1986.

David P. Rall, M.D., Ph.D.

Director, National Toxicology Program.

[FR Doc. 86-2126 Filed 1-30-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Closure of Public Lands in Ada County, ID

Correction

In FR Doc. 86-421 beginning on page 1044 in the issue of Thursday, January 9, 1986, make the following corrections:

On page 1044, third column, twelfth line from the bottom, remove the dagger "†".

On the same page, third column, eighth and ninth lines from the bottom should be corrected to read "Section 8, W ½ W ½, SW ¼ SE ¼ NW ¼, W ½ E ½ SW ¼, SE ¼ SW ¼."

BILLING CODE 1505-01-M

Conservation and Recreation Areas; Intent for 1986 Amendment Review of the California Desert Plan

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is hereby given that the Bureau of Land Management is initiating the 1986 Review of the California Desert Conservation Area Plan in accordance with the amendment procedures outlined in Chapter 7 of the Plan. The purpose of this review is to consider the need for possible amendments to the Plan based on requests from individuals, public and private organizations, and the Bureau's own observations.

DATE: Proposed amendments are being accepted from the Public until March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Requests for amendments or changes in the California Desert Plan are now being accepted from public agencies, interested individuals, and organizations. Supporting rationale should be provided for each proposed change. Requests will be considered in light of the following criteria:

(1) Is the proposed amendment based on new data not considered when the Plan was developed?

(2) Does the information represent a change in legal or regulatory mandate?

(3) Is the supporting detail sufficient and the problem clearly stated so that the request can be considered?

(4) Does the information represent a formal change in State or local government or agency plans?

The California Desert District Advisory Council will review the suggested amendments at its public meeting on April 10-11, 1986 in Riverside, California. This meeting will serve as a scoping meeting for the environmental document to be prepared on the amendments.

Please send your comments and proposals to the following address; 1986 PLAN AMENDMENTS, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507; (714) 351-6428.

Dated: January 23, 1986.

H.W. Riecken,

Acting District Manager.

[FR Doc. 86-2120 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-40-M

Rose Spring Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of the management plan for the Rose Spring Area of critical environmental concern (ACEC).

SUMMARY: The California Desert Conservation Area Plan identified the Rose Spring ACEC as an area with significant cultural resources which require special management attention. The Rose Spring ACEC includes 840 acres of public land managed by the Bureau of Land Management in T. 21 S., R. 37 E., Sec. 2, 3, 10, 11, 14, and 15 MDM, Inyo County. The authorities for the Management Plan are 43 CFR 8000.0-6, 8341, 8342, 8364, and 8365; Archaeological Resources Protection Act of 1979; Federal Land Policy and Management Act of 1976; and National Environmental Policy Act of 1970.

The development of the Management Plan included public involvement. The Management Plan makes recommendations for the protection of cultural resources within the Rose Spring ACEC. The protective measures are compatible with other uses, such as conservation of wildlife, mining, recreation, and management of the Los Angeles Aqueduct system. The ACEC will remain open to uses not in conflict with the Management Plan. The plan recommends installation of information, entrance, and closure signs to advise the public of the status of the land and cultural resources; monitoring of cultural resources; a complete inventory of cultural resources within the ACEC; nomination of the resources to the National Register of Historic Places; and data recovery of cultural resources if

other protective measures are not successful.

Authorized persons may drive within the closure. Any person who, without authorization, drives into the closure or adversely affects cultural resources may be subject to prosecution under the appropriate regulations and laws cited above.

EFFECTIVE DATE: Immediately.

ADDRESS: The Management Plan, including a map of the ACEC and public comments, will be available at the Ridgecrest Resource Area office, 112 E. Dolphin Street, Ridgecrest, CA 93555 from 7:30 a.m. until 4:00 p.m. on normal workdays.

FOR FURTHER INFORMATION, CONTACT: Joan Oxendine at the above address (619) 375-7125.

Dated: January 22, 1986.

Hugh Riecken,

Acting District Manager.

[FR Doc. 86-2119 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-40-M

[INT DEIS 85-49]

Colorado; Availability of the Draft Little Snake Resource Management Plan/Environmental Impact Statement and Wilderness Technical Supplement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement and Wilderness Technical Supplement and notice of 13 proposed special management areas considered for designation as Areas of Critical Environmental Concern (ACEC) and Research Natural Areas (RNA) or Outstanding Natural Areas (ONA) in one or more alternatives in this Draft Resource Management Plan.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, The Bureau of Land Management has prepared the Draft Little Snake Resource Management Plan/Environmental Impact Statement (RMP/EIS) and Wilderness Technical Supplement.

DATE: Comments must be received by May 9, 1986.

ADDRESS: Comments should be sent to: Little Snake RMP Project Manager, Bureau of Land Management, Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

FOR FURTHER INFORMATION CONTACT: Duane Johnson, Project Manager, Bureau of Land Management, Craig District Office, 455 Emerson Street,

Craig, Colorado 81625. Telephone: (303) 824-8261.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has prepared a Draft RMP/EIS and Wilderness Technical Supplement for the management of the Little Snake Resource Area in northwest Colorado. This statement analyzes the environmental, social, and economic impacts of six alternatives for multiple-use management of the Little Snake Resource Area. The RMP alternatives are designed to provide overall multiple-use objectives and management direction for all resource uses or values. Major issues addressed in the RMP include: management of forage for livestock, wildlife, and wild horses; suitability of eight wilderness study areas (WSAs) for designation as wilderness; determination of acceptability of lands for further consideration for federal coal leasing; and leasing of federal oil and gas. Also discussed is management of other minerals, threatened or endangered plants and animals, soils, water, forests, fire, recreation, off-road vehicles, cultural resources, rights-of-way, access to federal lands, and acquisition and disposal of federal lands.

Wilderness

The eight WSAs contain 92,087 acres. The proposed action recommends 36,240 acres as suitable for wilderness and 55,847 acres as unsuitable for wilderness.

Areas of Critical Environmental Concern

Thirteen areas proposed for possible designation as ACECs and RNAs or ONAs are also evaluated and analyzed in this plan. Detailed information on the sites listed can be found in Chapter 2 and Appendix 22 of the RMP.

Resource-Use Limitations

The following resource-use limitations would apply to all ACECs, except for those differences listed for each site. Avoidance stipulations would be placed on new federal oil and gas leases to protect the specific values for which each ACEC would be designated. No harvesting of forest products would be allowed, and vehicle use would be restricted to designated roads and trails. Other uses would be allowed as long as they did not detract from the resource values for which each area would be designated.

In addition to the above ACEC resource-use limitations, those ACECs also designated as RNAs would have the following resource-use limitations: A no-surface-occupancy stipulation would

be attached to new oil and gas leases, and avoidance of important resource values would be required during development of existing oil and gas leases; no livestock, wildlife, soil, or watershed projects would be allowed; no livestock grazing or wild horse use would be allowed; no developed recreational sites or intensive recreation use would be allowed; no vehicle use would be allowed, except for permitted uses; and no major rights-of-way or land disposals would be allowed.

The area proposed for ONA designation would have the following resource-use limitations, in addition to those listed above for ACECs and RNAs; except, livestock grazing would be allowed. Leasing or sale of federal minerals (except oil and gas) would not be allowed.

The Preferred Alternative, found in Chapter 2 of the RMP, considers alternative resource-use limitations for some ACECs.

Site Name: Irish Canyon

Designation, Acreage, Location

ACEC—11,400 acres, in T. 9 N., R. 100 W., secs. 5-8, and in T. 10 N., R. 100 W., secs. 30, 31, and in T. 9 N., R. 101 W., secs. 1-3, 1, 12, and in T. 10 N., R. 101 W., secs. 2-5, 8-11, 13-16, 21-27, 34-36, and in T. 11 N., R. 101 W., secs. 19, 20, 29, 30, 32-35, 6th P.M., Moffat County, Colorado.

Resource Values

This site provides scenic views of Irish Canyon and 12 geologic formations. Three remnant plant associations are found: *Juniperus osteosperma*/*Agropyron spicatum*, *Artemisia nova*/*Agropyron spicatum*, and *Juniperus osteosperma*-*Pinus edulis*/*Cercocarpus ledifolius* var. *intricatus* associations. There are also five Colorado BLM sensitive plant species: *Penstemon yampaensis*, *Parthenium ligulatum*, *Eriogonum tumulosum*, *Trifolium andinum*, and *Cryptantha caespitosa*.

Site Name: Limestone Ridge

Designation, Acreage, Location

ACEC and RNA—1,350 acres, in T. 10 N., R. 101 W., secs. 8, 9, 15, 16, 21, 22, and in T. 11 N., R. 101 W., secs. 19, 20, 29, 30, 32, 6th P.M., Moffat County, Colorado.

Resource Values

Limestone Ridge has high-scenic qualities and is a prominent landmark in northwest Colorado. The area is winter range for elk. Five remnant plant associations are found: *Juniperus osteosperma*-*Pinus edulis*/*Artemisia nova*/*Agropyron spicatum*, *Juniperus*

osteosperma/*Agropyron spicatum*, *Cercocarpus ledifolius* var. *intricatus*/*Agropyron spicatum*, *Agropyron spicatum*-*Arenaria hookeri*, and *Cercocarpus ledifolius*/*Artemisia tridentata* ssp. *wyomingensis*-*Symphoricarpos oreophilus*/*Agropyron spicatum* associations. *Penstemon yampaensis*, a Colorado BLM sensitive plant species, is also found on the site.

Site Name: Ink Springs

Designation, Acreage, Location

ACEC and RNA—280 acres, in T. 9 N., R. 101 W., secs. 2, 3, and in T. 10 N., R. 101 W., secs. 34 and 35, 6th P.M., Moffat County, Colorado.

Resource Values

Two remnant plant associations occur on this site: *Juniperus osteosperma*-*Pinus edulis*/*Artemisia nova*/*Agropyron spicatum* and *Artemisia nova*/*Stipa comata* associations. *Penstemon yampaensis* and *Eriogonum tumulosum*, two Colorado BLM sensitive plant species, are also found on this site.

Site Name: Horse Draw

Designation, Acreage, Location

ACEC and RNA—690 acres, in T. 11 N., R. 96 W., secs. 8, 17, 19, 20, 29, 30, 6th P.M., Moffat County, Colorado.

Resource Values

Horse Draw has scenic qualities resulting from its topography, which ranges from flat land to steep, spectacular cliffs. Two remnant plant associations occur on this site: *Atriplex confertifolia*/*Stipa comata* and *Atriplex gardneri*/*Elymus salina* associations. *Cryptantha caespitosa*, a Colorado BLM sensitive plant species, also occurs on this site.

Site Name: Vermillion Creek

Designation, Acreage, Location

ACEC and RNA—200 acres, in T. 9 N., R. 101 W., secs. 17 and 18, 6th P.M., Moffat County, Colorado.

Resource Values

The Vermillion Creek site contains the best condition example of the *Artemisia tridentata* ssp. *wyomingensis*/*Atriplex confertifolia*/*Grayia spinosa*/*Stipa comata* plant association currently known in the world.

Site Name: Ace in the Hole

Designation, Acreage, Location

ACEC and RNA—260 acres, in T. 11 N., R. 97 W., sec. 3, 6th P.M., Moffat County, Colorado.

Resource Values

The Ace-in-the-Hole site contains the best condition example of the *Atriplex gardneri*/*Oryzopsis hymenoides* remnant plant association currently known in the world.

Site Name: Vermillion Bluffs

Designation, Acreage, Location

ACEC and RNA—580 acres, in T. 10 N., R. 100 W., secs. 11-14, 6th P.M., Moffat County, Colorado.

Resource Values

The Vermillion Bluffs site contains the *Atriplex onfertifolia*/*Agropyron spicatum* remnant plant association.

Site Name: Hells Canyon

Designation, Acreage, Location

ACEC—280 acres in T. 12 N., R. 99 W., secs. 16, 17, 20, and 21, 6th P.M., Moffat County, Colorado.

Resource Values

The Hells Canyon site contains the Colorado BLM sensitive plant species, *Eriogonum acaule* and *Cryptantha caespitosa*.

Site Name: Lookout Mountain

Designation, Acreage, Location

ACEC—6,500 acres in T. 10 N., R. 99 W., secs. 2-6, 8-10, 15, and 16, and in T. 11 N., R. 98 W., secs. 19, 20, 29-31, and in T. 11 N., R. 99 W., secs. 24-26, 32-36, 6th P.M., Moffat County, Colorado.

Resource Values

Lookout Mountain is a prominent landmark in northwestern Moffat County with high scenic qualities because of its dramatic steep slopes and cliffs and views of large areas of northwestern Colorado and Wyoming. Two remnant plant associations are found on the site: *Juniperus osteosperma*/*Agropyron spicatum* and *Atriplex confertifolia*/*Agropyron spicatum*. Four Colorado BLM sensitive plant species also occur on the site: *Astragalus detritalis*, *Cryptantha caespitosa*, *Sphaeromeria capitata*, and *Townsendia strigosa*.

Site Name: Calico Draw

Designation, Acreage, Location

ACEC and RNA—650 acres in T. 5 N., R. 99 W., secs. 3-5, 9, 10, and 16, and in T. 6 N., R. 99 W., secs. 33, 6th P.M., in Moffat County, Colorado.

Resource Values

The Morrison Formation at this site contains fossil Jurassic reptilian fauna of unknown significance.

Resource-Use Limitations

The resource-use limitations for the Calico Draw site would be the same as those listed above for ACECs and RNAs, except livestock grazing and livestock, wildlife, and soils and watershed projects would be allowed.

Site Name: Cross Mountain Canyon

Designation, Acreage, Location

ACEC—3,000 acres, in T. 6 N., R. 98 W., secs. 11–15, 22–24, and 26, and in T. 6 N., R. 97 W., secs. 7, 18, and 19, 6th P.M., Moffat County, Colorado.

Resource Values

Cross Mountain Canyon is a high-visual quality canyon with steep rock cliffs that tower above the Yampa River. This section of the Yampa River is on the Nationwide Rivers Inventory List. The area is habitat for bighorn sheep, elk, and mule deer. Three federally listed endangered species, the Colorado squawfish, humpback chub, and peregrine falcon, and one state listed threatened species, the razorback sucker, are found within this site. The area contains *Penstemon yampaensis* and *Leptodactylon watsonii*, two Colorado BLM sensitive plant species.

Resource-Use Limitations

In addition to those resource use limitations listed above for ACEC's there would be a no-surface-occupancy stipulation on new federal mineral leases.

Site Name: G Gap

Designation, Acreage, Location

ACEC and RNA—275 acres in T. 10 N., R. 100 W., secs. 26, 27, 34, and 35, 6th P.M., Moffat County, Colorado.

Resource Values

This site contains two remnant plant associations: *Juniperus Osteosperma/Agropyron spicatum* and *Artemisia tridentata* ssp. *wyomingensis/Agropyron spicatum* associations. *Cymopterus duchesnensis*, a Colorado BLM sensitive plant species, is also found on this site.

Site Name: Little Yampa Canyon

Designation, Acreage Location

ACEC and ONA—12,000 acres in T. 5 N., R. 92 W., secs. 6, 7, and 18, and in T. 5 N., R. 93 W., secs. 1–6, 10–13, and in T. 6 N., R. 92 W., sec. 31, and in T. 6 N., R. 93 W., secs. 19–22, 26–36, and in T. 6 N., R. 94 W., secs. 23 and 24, 6th P.M., Moffat County, Colorado.

Resource Values

The Little Yampa Canyon site has high recreational use potential. The Yampa River, which flows through the canyon, is on the Nationwide Rivers Inventory List. The canyon has high-scenic qualities that enhance the recreational river boating experience. In addition, approximately 25 cultural resource sites have been identified in this area, and the potential for more sites is high.

Availability

Single copies of the Draft Little Snake RMP/EIS and Wilderness Technical Supplement may be obtained from the address listed above, or from:

Bureau of Land Management,
Colorado State Office, 2020 Arapahoe
Street, Denver, Colorado 80205.

Public Hearings

Public hearings to receive oral and/or written comments on this RMP/EIS and the Wilderness Technical Supplement will be held at 7:00 p.m. at the following locations:

March 10, 1986: Denver Colorado—
Foothills Ramada Inn, 11595 West 6th
Avenue (6th Avenue and Simms St.)

March 12, 1986: Craig Colorado—
Moffat County Courthouse, 221 West
Victory Way, 2nd Floor Auditorium

March 13, 1986: Vernal, Utah—Bureau
of Land Management, Vernal District
Office, 170 South 500 East

A time limit may be placed on oral comments, depending on the number of people who wish to make a statement. Oral comments should be accompanied by a written synopsis of the presentation.

Dated: January 24, 1986.

Bob Moore,

Associate State Director, Colorado State
Office.

[FR Doc. 86-2124 Filed 1-31-86; 8:45 am]

BILLING CODE 4310-JB-M

[M 59763]

Order Providing for Opening of Public Land; Montana

AGENCY: Bureau of Land Management,
Interior.

ACTION: Order Providing for Opening of
Public Land in Teton and Lewis and
Clark Counties, Montana.

SUMMARY: This order will open lands
reconveyed to the United States in an
exchange under the Federal Land Policy
and Management Act of 1976, 43 U.S.C.
1701, et seq. to the operation of the
public land laws.

DATE: At 9 a.m. on February 28, 1986, the
following lands reconveyed to the
United States shall be open to the
operation of the public land laws subject
to valid existing rights, the provisions of
existing withdrawals and the
requirements of applicable law. No
minerals were transferred by either
party in the exchange:

Principal Meridian, Montana

T. 24 N., R. 8 W.,

Sec. 5, Part of lot 1, and lots 5, 6,

SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,

SW $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 6, lot 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ and

SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 7, lots 1, 2, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 8, W $\frac{1}{2}$ NW $\frac{1}{4}$.

Aggregating 974.51 acres.

SUPPLEMENTARY INFORMATION: The
following described land was segregated
from settlement, sale, location, and
entry, including the mining laws by the
Notice of Realty Action published in the
Federal Register on November 28, 1984,
but was not used in the exchange:

Principal Meridian, Montana

T. 20 N., R. 5 W.,

Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$.

Containing 80.00 acres.

At 9 a.m. on February 28, 1986, the
segregated land not used in the
exchange will be open to the operation
of the public land laws, including the
mining laws.

FOR FURTHER INFORMATION CONTACT:

Edward H. Croteau, Chief, Lands
Adjudication Section, BLM, Montana
State Office, P.O. Box 36800, Billings,
Montana 59107, Phone (406) 657-6082.

Dated: January 17, 1986.

John A. Kwiatkowski,

Deputy State Director, Land and Renewable
Resources.

[FR Doc. 86-2121 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-DN-M

[N-21758]

Nevada; Order Providing for Opening of Public Lands

January 22, 1986.

The following described lands were
reconveyed to the United States on
September 13, 1982:

Mount Diablo Meridian, Nevada

T. 35 N., R. 18 E.,

Sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 10, SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 11, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 12, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 13, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 35 $\frac{1}{2}$ N., R. 18 E.,

Sec. 32, tract 37.
T. 36 N., R. 18 E.,
Sec. 32, tracts 60 and 61.
T. 35 N., R. 18 E.,
Sec. 24, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 36 N., R. 19 E.,
Sec. 16, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 17, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains approximately 969.68 acres.

All minerals were reconveyed to the United States.

On the 30th day, commencing with the date of this publication, the land described above will be open to the operation of the public land laws, subject to valid existing rights, existing classifications, and the requirements of applicable laws. All valid applications received from the date of this publication and until the opening of business on the 30th day, will be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

On the 30th day, commencing with the date of this publication, the land described above will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, Susanville District Office, P.O. Box 1090, Susanville, California 96130.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-2196 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-HC-M

[OR 36609, OR 37058]

**Modification of Realty Action;
Competitive/Modified Competitive/
Direct Sale of Public Lands in Malheur
County; OR**

The Notices of Realty Action—

Competitive/Modified Competitive/
Direct Sale—Lands in Malheur County,
Oregon published in the **Federal
Register**, Volume 49, No. 142 on July 123,
1984, at page 29684 and Volume 49, No.
191 on October 1, 1984 at page 38715, for

sale no. OR 36609 and OR 37058,
respectively, are hereby modified. The
parcels originally described and offered
for sale, but which were not sold, have
been reappraised and are reoffered for
sale as follows:

Parcel No.	Legal description	Acreage	Ap- praised value	Minimum bid deposit (%)
OR-36609-1.	T. 14 S., R. 41 E., W.M. Section 22, E $\frac{1}{2}$ SE $\frac{1}{4}$	80	\$8,000	30
OR-36609-3.	T. 17 S., R. 44 E., W.M. Section 2, SW $\frac{1}{4}$	160	20,000	20
OR-36609-5.	T. 16 S., R. 46 E., W.M. Section 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$	40	4,000	30
OR-36609-6.	T. 16 S., R. 46 E., W.M. Section 27, S $\frac{1}{2}$	320	32,000	20
OR-36609-8.	T. 19 S., R. 46 E., W.M. Section 8, S $\frac{1}{2}$ SE $\frac{1}{4}$	80	10,000	20
OR-36609-10.	T. 14 S., R. 41 E., W.M. Section 34, S $\frac{1}{2}$ NW $\frac{1}{4}$	80	8,000	30
OR-37058-2.	T. 14 S., R. 41 E., W.M. Section 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	4,000	30

Except for the provisions of Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriations under the public land laws, including the mining laws.

The parcels have been available for sale on a sealed bid basis pursuant to the original sale notice and will continue to be available, subject to the modifications made by this notice. Sealed bids for these parcels will now be accepted in the Vale District Office. Bids may be submitted by qualified persons either by mail or delivered in person during regular business hours. Bids will not be accepted for less than the minimum bid listed for each parcel.

All bids received will be opened the first Wednesday of each month. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for not less than 20 percent of the amount of the bid for parcel nos. OR-36609—3, 6, and 8. Parcel nos. OR-36609—1, 5, 10; and OR-37058—2 require a deposit of not less than 30 percent of the bid amount. Bids must be enclosed in a sealed envelop marked in the lower left-hand corner as follows: "Public Sale Bid, Serial No. —." If two or more envelopes are received each containing acceptable bids of the same amount for the same parcel, the successful bid shall be determined by drawing. In all cases the higher sealed bid will determine the successful purchaser. The successful purchaser will be notified in writing and will be required to submit the remainder

of the amount bid within 180 days. Failure to submit the full sale price within 180 days shall result in cancellation of the sale and the bidder's deposit will be forfeited. All unsuccessful bids will be returned.

Bidders must be U.S. citizens, 18 years of age or more, a state or a state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the sale land is offered.

All other applicable terms and conditions published in the original notices remain unchanged.

The parcels will remain available for purchase as described above until sold or withdrawn from sale by the Authorized Officer.

Bids and requests for information on the above parcels should be directed to the Vale District Office, 100 Oregon Street, P.O. Box 700, Vale, Oregon 97918, telephone 503/473-3144.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Vale District Office. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: January 17, 1986.

David P. Lodzinski,
District Manager.

[FR Doc. 86-2122 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service**Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting**

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463. A meeting of the Outer Continental Shelf Board's Gulf of Mexico Regional Technical Working Group will be held on March 18-20, 1986, in Metairie, Louisiana. The agenda of the meeting is as follows:

March 18—9:00 a.m.—5:00 p.m.: Gulf of Mexico Ternary Studies Meeting.

March 19—8:30 a.m.—5:00 p.m.: Regional Technical Working Group Business Meeting.

A. Administrative Items.

B. Current Gulf of Mexico Regional Activities.

C. Draft Regional Studies Plan FY '88.

March 20—9:00 a.m.—12 noon: Conclusion of Regional Technical Working Group Business Meeting.

The meeting will be held in the Landmark Hotel, 2601 Severn Avenue, Metairie, Louisiana. All sessions are open to the public, and interested persons may make oral or written presentations at the Business Meeting upon request. Such requests, or general questions about the meeting, should be made not later than March 10, 1986, to Ms. Eileen P. Angelico, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Boulevard, P.O. Box 7944, Metairie, Louisiana 70010, or telephone (504) 838-0627.

A tape cassette transcript and complete summary minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

Dated: January 23, 1986.

J. Rogers Percy,

Acting Regional Director, Gulf of Mexico OCS Region, Minerals Management Service.

[FR Doc. 86-2114 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Marathon Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Marathon Oil Company, Unit Operator of the Vermilion Block 369 Federal Unit

Agreement No. 14-08-0001-16149, submitted on January 14, 1986, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Vermilion Block 369 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 22, 1986.

J. Rogers Percy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-2115 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Peltco Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Peltco Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4076, Block 105, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on January 21, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at

the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected states, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of title 30 of the CFR.

Dated: January 22, 1986.

J. Rogers Percy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-2116 Filed 1-30-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION**Intent To Engage in Compensated Intercompany Hauling Operations**

January 28, 1986.

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercompany hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Ashland Oil, Inc., 1000 Ashland Drive, Russell, KY 41114.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

Subsidiary	Jurisdiction of incorporation
Ashland Chemical, Inc.	Delaware.
Ashland Development, Inc.	Delaware.
Ashland Ethanol, Inc.	Delaware.
Ashland Oil and Transportation Company.	Kentucky.
Ashland Petroleum, Inc.	Delaware.
Ashland Pipe Line Company	Ohio.
Inland Towing Company	Delaware.
Mid-Valley Supply Co.	Kentucky.
Southern Oil Company of New York, Inc.	New York.

Subsidiary	Jurisdiction of incorporation
Tri-State Marketing Services, Inc.	Delaware.
APAC—Alabama, Inc.	Delaware.
APAC—Arkansas, Inc.	Delaware.
APAC—Carolina, Inc.	Delaware.
APAC—Georgia, Inc.	Delaware.
APAC, Inc.	Delaware.
APAC—Kansas, Inc.	Delaware.
APAC—Mississippi, Inc.	Delaware.
APAC—Tennessee, Inc.	Delaware.
APAC—Texas, Inc.	Delaware.
APAC—Virginia, Inc.	Delaware.
MacAsphalt, Inc.	Delaware.
MacDonald Construction, Inc.	Georgia.
Magaw Construction, Inc.	Indiana.
Magaw Hot Mix, Inc.	Indiana.
Muncie Paving Asphalt, Inc.	Indiana.
Reg X Condor, Inc.	Delaware.
Scurlock Oil Company	Delaware.
TAP—CO, Inc.	North Carolina.
Algonquin Pipe Line Company	Illinois.
Ohio River Pipe Line Company	Delaware.
Owensboro-Ashland Company	Delaware.
SOCO Pipeline Company	Texas.
Transport Supply Company, Inc.	Texas.
Blanton Marine Corp.	Texas.
Rich Oil, Inc.	Delaware.

1. Parent Corporation and address of principal office: Cardinal Industries, Inc., 2040 South Hamilton Road, Columbus, Ohio 43232, An Ohio Corporation.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation:

(a) Cardinal Furniture Leasing Co.—An Ohio Corporation.

(b) Cardinal Parts Service Co.—An Ohio Corporation.

(c) Cardinal Industries Services Corporation—An Ohio Corporation.

(d) Columbus Construction, Inc.—An Ohio Corporation.

(e) Cardinal Industries of Florida, Inc.—A Florida Corporation.

(f) Cardinal Industries of Georgia, Inc.—A Georgia Corporation.

1. Parent corporation and address of principal office: Hydrite Chemical Company, 2655 North Mayfair Road, Milwaukee, Wisconsin 53226.

2. Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

(A) United States Chemical Corporation of Wisconsin, Inc., 316 Hart Street, Watertown, Wisconsin 53094, State of incorporation: Wisconsin.

(B) Avganic Industries, Inc., 114 North Main Street, Cottage Grove, Wisconsin 53527, State of incorporation: Wisconsin.

1. Parent corporation and address of principal office: Sound Distributing Corporation, 100 Electra Lane, Yonkers, New York 10704.

2. Wholly-owned subsidiary which will participate in the operations and the state of its incorporation:

(i) Electra Snacks Corporation, 200 Electra Lane, Yonkers, New York 10704, incorporated in the State of New York.

James H. Bayne,
Secretary.

[FR Doc. 86-2144 Filed 1-30-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30772]

Cuyahoga Valley Railway Co.; Granting of Trackage Rights; by Baltimore and Ohio Railroad Co.

The Baltimore and Ohio Railroad Company has agreed to grant overhead trackage rights of approximately 1,750 feet to Cuyahoga Valley Railway Company between Cleveland (P.S. 250+68) and Cuyahoga Heights (O.P. 20+73), OH. The trackage rights became effective January 21, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: January 24, 1986.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 86-2146 Filed 1-30-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 110)A]

Buffalo, Rochester and Pittsburgh Railway Co. and Baltimore and Ohio Railroad Co. Abandonment and Discontinuance in Indiana County, PA; Findings

The Commission has issued a certificate authorizing the Buffalo, Rochester and Pittsburgh Railway Company to abandon, and The Baltimore and Ohio Railroad Company to discontinue, service over 2.24 miles in Indiana County, PA between: (a) Valuation station 930+16 and valuation station 910+067 at Indiana, PA, a distance of 0.38 miles; and (b) milepost 0.00 at Lucerne Junction and the end of the line a milepost 1.86 (Lucerne Branch), a distance of 1.86 miles. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A

financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicants no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: Rail Section, AB-OFA". Any offer previously made must be made within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Secretary.

[FR Doc. 86-2299 Filed 1-30-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-79)]

The Chesapeake and Ohio Railway Co., Abandonment in Greenbrier County, WV; Findings

The Commission has issued a certificate authorizing The Chesapeake and Ohio Railway Company to abandon its 3.06-mile rail line between Whitcomb (valuation station 0+00)(milepost 0.00) and North Caldwell (valuation station 161+43)(milepost 3.06) in Greenbrier County, WV. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) It is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,
Secretary.

[FR Doc. 86-2145 Filed 1-30-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub-38)]

**Norfolk & Western Railway Co.
Discontinuance of Service In Madison
County; IL; Findings**

The Commission has issued a certificate authorizing the Norfolk & Western Railway Company to discontinue service over its 25.3-mile rail line between Wanda (milepost A9.7) and McKinley Junction (milepost A35.0) in Madison County, IL. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed to bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Secretary.

FR Doc. 86-2147 Filed 1-30-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****Manufacturer of Controlled
Substances; Registration; E.I. DuPont
De Nemours and Co., Inc.**

By notice dated October 29, 1985, and published in the **Federal Register** on November 15, 1985; (50 FR 47292), E.I. DuPont De Nemours and Company, Inc., D/B/A, DuPont Pharmaceuticals, Pharmaceuticals Chemical Facility, Chamber Works Building J-24, Deepwater, New Jersey 08023, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143).....	II
Hydrocodone (9193).....	II
Oxycodone (9652).....	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 27, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 86-2165 Filed 1-30-86; 8:45 am]

BILLING CODE 4410-09-M

**Manufacturer of Controlled
Substances; Registration; Sigma
Chemical Co.**

By Notice dated May 21, 1985, and published in the **Federal Register** on May 31, 1985; (50 FR 23202), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Morphine-3-glucuronide (9329).....	II
Marihuana (7360).....	I
Tetrahydrocannabinols (7370).....	I
Mescaline (7381).....	I
Methaqualone (2565).....	I

No comments or objections have been received. Therefore, pursuant to section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated January 27, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 86-2166 Filed 1-30-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR**Employment Standards
Administration, Wage and Hour
Division****Minimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective

from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts	
MA86-1 (Jan. 3, 1986).....	p. 347.
Pennsylvania	
PA86-1 (Jan. 3, 1986).....	pp. 795-796. pp. 799-802.
Pennsylvania	
PA86-4 (Jan. 3, 1986).....	pp. 821-822.
Virginia	
VA86-14 (Jan. 3, 1986).....	p. 1086.

Volume II

Iowa	
IA86-5 (Jan. 3, 1986).....	p. 45.
Louisiana	
LA86-4 (Jan. 3, 1986).....	pp. 355-358.
Louisiana	
LA86-5 (Jan. 3, 1986).....	pp. 360-367, p. 374.

Texas	
TX86-19 (Jan. 3, 1986).....	p. 894.
Listing by Location	
(index).....	p.xxxix-x1, p. xlii.

Volume III

Arizona	
AZ86-1 (Jan. 3, 1986).....	pp. 11-12.
Arizona	
AZ86-3 (Jan. 3, 1986).....	pp. 30.
California	
CA86-4 (Jan. 3, 1986).....	pp. 65, 68, 70- 72, 79-81.
Washington	
WA86-1 (Jan. 3, 1986).....	p. 301.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is \$277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C., this 24th day of January 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-1950 Filed 1-30-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-85-180-C]

Kintzel Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kintzel Coal Company, R.D. #2 Box 533, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Lykens No. 6 Mine

(I.D. No. 36-01886) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute; and that the minimum quantity of air reaching each working face by 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine, which also has no history of an ignition, explosion, mine fire or harmful quantities of carbon dioxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

- a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;
- b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and
- c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before

March 3, 1986. Copies of the petition are available for inspection at that address.

Dated: January 24, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-2198 Filed 1-30-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-190-C]

Kitt Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kitt Energy Corporation, 333 West Vine Street, Lexington, Kentucky 40507 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Kitt No. 1 Mine (I.D. No. 46-04168) located in Barbour County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located in the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to install a longwall mining unit with cables and equipment designed to conduct 2300 volts A.C. to be located and used in the last open crosscut and within 150 feet of pillar workings. The cables will be designed and constructed to withstand the conditions of an underground mining environment and will enter the permissible equipment through approved stuffing box lead entrances or approved couplers. Each power conductor will be surrounded by a grounded metal shield within a protective cover that is protected by a ground fault monitoring system.

3. A methane monitoring system will be built into the high voltage system on working sections so that the high voltage cables and equipment on the longwall face will be de-energized at the controller when methane is found in excess of 2% in the working area where high voltage equipment is located.

4. Petitioner states that use of a high voltage system will increase the measure of protection to miners because a decrease in current loads to obtain equivalent power output would reduce fire hazards due to heating of cables and other electrical components and would reduce the number and/or size of cables needed to supply power to the system

thus requiring less cables to be handled. There would be fewer components to be maintained therefore less exposure and less risk of fire, explosion or injury.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1986. Copies of the petition are available for inspection at that address.

Dated: January 24, 1987.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-2199 Filed 1-30-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-195-C]

Scotts Branch Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Scotts Branch Mining Company, Route 1, Box 819, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Scotts Branch Mine (I.D. No. 15-08079) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, petitioner proposes to clean out and plug oil and gas wells using the following technique and procedures:

a. The well bore would be cleaned out to its total depth or to a minimum of 300 feet below the seam being mined;

b. The well bore would be filled with inert material to 300 feet below the floor of the coal seam being mined. An expanding cement plug would be placed between 300 and 100 feet below the seam being mined and would be a minimum of 200 feet in length;

c. The well bore may be reserved for uses connected with the extraction of coal such as a gas bleeder borehole, water borehole, power borehole or degasification borehole;

d. The plug of inert material would extend to at least 100 feet above the coal seam being mined; and

e. The petitioner would attempt to remove any casing at or near the seam being mined if practical or to rip or fracture the casing to allow for ease of removal during the mining cycle.

3. Petitioner would instruct all personnel in the affected area to proceed with caution when mining near, through or into the well supporting portion of the coal seam, as well as the expected place of mining through the gas or oil well. A special effort would be made to assure a gas-free atmosphere.

4. Sufficient supplies of roof support, ventilation materials and fire fighting materials would be available near the working place.

5. Face equipment would be checked for permissibility and serviced on the shift prior to the possible mine-through and the methane monitor on the mining machine would be calibrated and tested on the shift prior to the possible mine-through.

6. Tests for methane would be made at least every ten minutes once the mining has reached the distance from the well that requires extra safety precautions.

7. The area would be as free as possible from accumulations of coal dust and coal spillage and rockdust would be maintained on the roof, ribs and floor to within twenty feet of the face.

8. If and when the well bore is intersected, all equipment on the section would be idled and de-energized and the place thoroughly examined and determined safe before mining on the section is resumed. Any well casing would be removed and no open flame would be permitted in the area if more than 1% methane could be detected.

9. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1986. Copies of the petition are available for inspection at that address.

Dated: January 24, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-2200 Filed 1-30-86; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-09]

NASA Advisory Council (NAC) Space and Earth Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee (SESAC).

DATE AND TIME: February 25, 1986, 9:30 a.m. to 5:30 p.m.; February 26, 1986, 8:30 a.m. to 5:45 p.m.; February 27, 1986, 8:30 a.m. to 12:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1410).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The committee is chaired by Dr. Louis Lanzerotti and is composed of 30 members. The committee operates both through a number of informal subgroups and as a whole. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons, including committee members and other participants).

Type of Meeting: Open.

Agenda

February 25, 1986

9:30 a.m. Announcements, Review of Agenda.

9:45 a.m. Office of Space Science and Applications (OSSA) Program Status and Budget; FY 1986 Operating Plan; FY 1987 Budget Proposal; Implications of Gramm-Rudman-Hollings Balanced Budget Act;

General Budget Climate and its Impact on Long Range Planning.

1 p.m. Reports from Study Team Chairpersons on Study Activities and Progress.

2:30 p.m. Splinter Meetings by Study Teams.

5:30 p.m. Adjourn.

February 26, 1986

8:30 p.m. Splinter Meetings by Study Teams.

1:30 p.m. Meeting with the Acting NASA Administrator.

2:15 p.m. Status of the Space Science Board Major Directions Study.

3:15 p.m. Splinter Meetings by Study Teams.

4:45 p.m. Plenary Session. Reports from Study Team Chairperson.

5:45 p.m. Adjourn.

February 27, 1986

8:30 a.m. Report on Congressional Science Policy Study.

10:30 a.m. Splinter Meetings by Study Teams.

11:15 a.m. Plenary Session: Study Status and Planning; Plans for Next Meeting; Meeting Summary.

12:30 p.m. Adjourn.

Dated: January 24, 1986.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 86-2130 Filed 1-30-86; 8:45 am]

BILLING CODE 7510-10-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Fairview, NJ; Aircraft Accident

In connection with its investigation of the accident involving a Nabisco Brands, Inc., Falcon 50, N784B, and Air Pegasus Corp., Piper PA28-181 Archer, N1977H midair collision near Teterboro Airport, New Jersey, November 10, 1985, the National Transportation Safety Board will convene a public hearing at 9 a.m., (local time) on February 24, 1986, in the Plaza Rooms of the Sheraton Heights Hotel, 650 Terrace Avenue, Hasbrouck Heights, New Jersey 07604. For more information, contact Mr. Brad Dunbar, Office of Government and Public Affairs, National Transportation Safety Board 800 Independence Avenue, SW., Washington, D.C. 20594, telephone (202) 382-6600.

Catherine T. Kaputa,

Federal Register Liaison Officer.

January 24, 1986.

[FR Doc. 86-2140 Filed 1-30-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-347]

Washington Public Power Supply System; WPPSS Nuclear Project No. 2; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-21, issued to Washington Public Power Supply System (the licensee), for operation of the WPPSS Nuclear Project No. 2 located in Benton County near Richland, Washington.

The amendment would change the Drywell and Suppression Chamber Purge System Limiting Condition for Operation, section 3.61.8, and the associated Surveillance Requirements, section 4.61.8.3, of the WNP-2 Technical Specifications. Specifically, the proposed changes would permit purging through the standby gas treatment system for a total of 150 hours, instead of 90 hours, during any 365-day period prior to the first refueling outage.

WNP-2 has been experiencing vibration problems with Recirculating Pump B. Investigations of these problems have required numerous containment reentries during the past several months. Each reentry requires decontaminating and recontaminating of the containment which in turn requires purging through the standby gas treatment system. As a result, approximately 80 hours of the 90 hours per 365-days currently permitted by the Technical Specification have been used. Normal operation requires purging for one or two hours per week to maintain acceptable oxygen concentrations within the containment and a single additional reentry will exceed the presently allowable limit and preclude restarting without relaxation of this 90 hour per year limit. This amendment is in accordance with the licensee's applications for amendment dated December 20 and 31, 1985.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means

that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

If a loss of coolant accident should occur while the purge valves are open, increasing the purge time increases the probability of some release of radioactivity during this period; however, since there is substantial time between the initiation of many accidents and the onset of severe core damage, the overall probability and risk of release of radioactivity to the atmosphere remains low and acceptable.

Accordingly, the licensee has determined and the staff agrees that the requested amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the primary containment integrity continues to be maintained by the operable isolation function of the valves; therefore the overall probability of release of radioactivity to the atmosphere remains low and within acceptable limits; or (2) Create the possibility of a new or different kind of accident from an accident previously evaluated because no new designs, plant operating modes or the scope of the Limiting Conditions for Operation are affected; or (3) Involve a significant reduction in a margin of safety because the proposed amendment does not affect the ability to achieve primary containment integrity and the availability of the standby gas treatment system is not affected.

The Commission has identified examples of amendments that are considered not likely to involve significant hazards considerations (Federal Register Vol. 48, No. 67, April 6, 1983). Example vi reads as follows: "A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method." As indicated above, increasing purge time may increase the probability of some release of radioactivity if a LOCA occurs while the purge valves are open,

but this increase is small and the overall probability remains acceptable.

Based on staff review of the proposed modification involving a one time only increase in the allowable purging time through the standby gas treatment system, the Commission proposes to determine that the requested changes to the WNP-2 Technical Specifications match example vi and, therefore, involve no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

By March 3, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be

entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is

that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room, Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Bethesda, Maryland, this 28th day of January 1986.

For the Nuclear Regulatory Commission.
Elinor G. Adensam,
Director, BWR Project Directorate No. 3,
Division of BWR Licensing.
[FR Doc. 86-2201 Filed 1-30-86; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 642; Docket No. A86-7]

Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5); Longstreet, LA 71050 (Mrs. H.E. Denison, Petitioner)

Issued: January 24, 1986.
Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Docket Number: A86-7.
Name of affected Post Office:
Longstreet, Louisiana 71050.
Name(s) of petitioner(s): Mrs. H.E. Denison.

Type of determination: Consolidation.
Date of filing of appeal papers:
January 16, 1986.

Categories of issues apparently raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].
2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before January 31, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.
Charles L. Clapp,
Secretary.

Appendix—Docket No. A86-7, Longstreet, Louisiana 71050

January 16, 1986—Filing of Petition.
January 24, 1986—Notice and Order of Filing of Appeal.

February 10, 1986—Last day for filing petitions to intervene [see 39 CFR 3001.111(b)].

February 20, 1986—Petitioner's Participant Statement or Initial Brief [See 39 CFR 3001.115(a) and (b)].

March 12, 1986—Postal Service Answering Brief [see 39 CFR 3001.115(c)].

March 27, 1986—(1) Petitioner's Reply Brief should petitioner choose to file one [see 39 CFR 3001.115(d)].

April 3, 1986—(2) Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].

May 16, 1986—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 86-2113 Filed 1-30-86; 8:45 am]

BILLING CODE 7715-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Subcommittee on Diagnostic and Therapeutic Practices; Meeting

Notice is hereby given of a meeting of the Subcommittee on Diagnostic and Therapeutic Practices of the Prospective Payment Assessment Commission scheduled for Friday, February 14, 1986. The meeting will convene at 9:30 a.m. in the BOAC room of the Hyatt Regency O'Hare in Chicago, Illinois, and will be open to the public.

Donald A. Young,
Executive Director.

[FR Doc. 86-2242 Filed 1-30-86; 8:45 am]

BILLING CODE 6820-BW-M

RAILROAD ACCOUNTING PRINCIPLES BOARD

Establishment of Cost Accounting Principles for Rail Carriers

AGENCY: Railroad Accounting Principles Board.

ACTION: Request for responses to issues and questions.

SUMMARY: The Railroad Accounting Principles Board (RAPB) will issue on January 31, 1986, a discussion memorandum (DM) which identifies various issues and questions regarding railroad accounting and cost information used for certain regulatory purposes. The RAPB developed the DM as part of its effort to obtain public input into the principles the RAPB should establish. By this notice, the RAPB invites all interested parties to participate in this process by submitting their responses to the issues and questions presented. Responses to the DM will aid the RAPB in considering the

range of factors which should be incorporated into the principles.

DATES: Written responses to the issues and questions presented in the DM shall be submitted to the RAPB by March 31, 1986. Due to the comprehensive nature of the DM, responses to the issues and questions contained in Chapters III and IV will be accepted until April 30, 1986.

ADDRESS: Responses should be sent to: Railroad Accounting Principles Board, PO Box 50608, Washington, DC 20004.

TO RECEIVE THE DM AND FOR FURTHER INFORMATION CONTACT: Charles R. Yager, Executive Director, (202) 275-1635.

SUPPLEMENTARY INFORMATION: The Railroad Accounting Principles Board has the statutory responsibility to establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission, principles governing the determination of economically accurate railroad costs associated with the movements of goods. In developing these principles, the Board must take into account, among other things, the specific regulatory purposes for which railroad costs are required, the degree of accuracy of the required cost information, the benefits and costs of requiring the data, and the means of maintaining confidentiality.

The RAPB expects to establish the principles and report to Congress in early 1987. After the principles are established, the Interstate Commerce Commission is responsible for promulgating the rules necessary to implement and enforce the principles. For a more detailed explanation of the history, status, and responsibilities of the RAPB, see 50 FR 7153 (Feb. 20, 1985).

The RAPB prepared a discussion memorandum to solicit public comment on appropriate approaches for establishing accounting and cost principles. After an introductory chapter, the DM addresses regulatory measurement principles in Chapter II, costing principles in Chapter III, and other relevant issues in Chapter IV. Each chapter presents issues and questions relevant to the subject of the chapter. In view of the limited time available, the complexity of some matters, and the possibility that certain matters may be best left to other forums, the RAPB will not be able to resolve all the issues raised in the DM.

Nevertheless, the DM is a comprehensive presentation of issues and questions so that RAPB will have a broad perspective for its subsequent consideration of prospective principles.

In its February 20, 1985, Federal Register notice, the RAPB invited interested parties to suggest the issues the RAPB should address. The DM is being mailed directly to the parties who responded to that notice or are otherwise known to the RAPB to be interested in responding to the DM. This notice invites other interested parties to also participate in this process. Parties wishing to receive the DM or confirm that they have been mailed the DM are invited to contact the RAPB.

Dated: January 24, 1986.

Charles A. Bowsher,

Chairman, Railroad Accounting Principles Board.

[FR Doc. 86-2148 Filed 1-30-86; 8:45 am]

BILLING CODE 1610-01-M

Establishment of cost Accounting Principles for Rail Carriers

AGENCY: Railroad Accounting Principles Board.

ACTION: Request for responses to issues and questions.

SUMMARY: The Railroad Accounting Principles Board (RAPB) will issue on January 31, 1986, a discussion memorandum (DM) which identifies various issues and questions regarding railroad accounting and cost information used for certain regulatory purposes. The RAPB developed the DM as part of its effort to obtain public input into the principles the RAPB should establish. By this notice, the RAPB invites all interested parties to participate in this process by submitting their responses to the issues and questions presented. Responses to the DM will aid the RAPB in considering the range of factors which should be incorporated into the principles.

DATES: Written responses to the issues and questions presented in the DM shall be submitted to the RAPB by March 31, 1986. Due to the comprehensive nature of the DM, responses to the issues and questions contained in Chapters III and IV will be accepted until April 30, 1986.

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SUPPLEMENTARY INFORMATION: The Railroad Accounting Principles Board has the statutory responsibility to establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission,

principles governing the determination of economically accurate railroad costs associated with the movements of goods. In developing these principles, the Board must take into account, among other things, the specific regulatory purposes for which railroad costs are required, the degree of accuracy of the required cost information, the benefits and costs of requiring the data, and the means of maintaining confidentiality.

The RAPB expects to establish the principles and report to Congress in early 1987. After the principles are established, the Interstate Commerce Commission is responsible for promulgating the rules necessary to implement and enforce the principles. For a more detailed explanation of the history, status, and responsibilities of the RAPB, see 50 FR 7153 (Feb. 20, 1985).

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In its February 20, 1985, Federal Register notice, the RAPB invited interested parties to suggest the issues the RAPB should address. The DM is being mailed directly to the parties who responded to that notice or are otherwise known to the RAPB to be interested in responding to the DM. This notice invites other interested parties to also participate in this process. Parties wishing to receive the DM or confirm that they have been mailed the DM are invited to contact the RAPB.

Dated: January 24, 1986.

Charles A. Bowsher,

Chairman, Railroad Accounting Principles Board.

[FR Doc. 86-2148 Filed 1-30-86; 8:45 am]

BILLING CODE 1610-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3879]

Application to Withdraw From Listing and Registration; Dynalectron Corp., Common Stock, Par Value \$.10 Per Share

January 24, 1986.

The Above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The issuer considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the New York Stock Exchange and the American Stock Exchange. The issuer does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before February 14, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2216 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5441]

Notice of Application To Withdraw From Listing and Registration; Marshall Industries; Common Stock, Par Value \$1.00 Per Share

January 24, 1986.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to

section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The issuer considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the New York Stock Exchange and the American and Pacific Stock Exchanges. The issuer does not see any particular advantage in the dual trading of its stock. The issuer believes that listing solely on the New York Stock Exchange provides the issuer with sufficient order depth and liquidity, that dual listing would result in inappropriate additional costs, and that dual listing would fragment the market for its common stock.

Any interested person may, on or before February 14, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2217 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24001; 70-7195]

Allegheny Power System, Inc.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper to Dealers; Exception From Competitive Bidding

January 27, 1986.

Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, New York 10022, a registered holding company, has filed an application with this Commission pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

Allegheny proposes to issue and sell short-term notes from time to time to

banks and to dealers in commercial paper through September 30, 1987, in an aggregate principal amount not to exceed \$110 million. This amount includes any short-term debt still outstanding under this Commission's prior authorization in HCAR No. 23395, August 14, 1984. The effective cost of bank borrowings under the lines of credit would be 9.79% based on a prime rate of 9.5%.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 20, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2211 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24000; 70-7217]

Consolidated Natural Gas Co.; Proposed Amendment of Certificate of Incorporation, Issuance of Common Stock in Connection With Two-For-One Stock Split; Authorization for Solicitation of Proxies

January 27, 1986.

Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 thereunder.

Consolidated proposes to amend its Certificate of Incorporation to increase and reclassify its authorized common stock from 50,000,000 shares (\$4 par value) to 100,000,000 shares (\$2.75 par value), primarily for the purpose of effecting a two-for-one stock split by

changing each share of issued and unissued \$4 par value common stock into two shares of \$2.75 par value common stock. In connection therewith, Consolidated proposes to issue on or after May 20, 1986, such additional number of shares of common stock, \$2.75 par value, as shall equal the total number of common shares outstanding on May 20, 1986, to common stockholders of record on that date. The company expects to have approximately 41,390,000 shares, \$4 par value, outstanding on May 20, 1986. The excess of shares over those required for the stock split will be available to Consolidated for issuance in connection with its stockholder and employee plans and other corporate purposes.

Consolidated proposes to solicit proxies regarding the proposed amendment to its Certificate of Incorporation with respect to the annual meeting of common stockholders to be held May 20, 1986.

The declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 20, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the amended declaration, as filed or as it may be further amended, may be permitted to become effective.

It appearing to the Commission that Consolidated's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86-2210 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14919 (File No. 812-6202)]

Criterion Bond Fund; Application and Opportunity for Hearing

January 27, 1986.

Notice is hereby given that Criterion Bond Fund ("Applicant"), 333 Clay Street, Suite 4300, Houston, Texas 77002, an open-end, diversified, management investment company, filed an application on September 19, 1985, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting two of its three portfolios, the U.S. Government High Yield Trust ("High Yield Trust") and Criterion U.S. Government Institutional Trust ("Institutional Trust", collectively "Portfolios"), from the provisions of section 19(b) of the Act and Rule 19b-1 thereunder to the extent necessary to permit the Portfolios to make monthly distributions of certain long-term capital gains realized by the Portfolios in certain transactions in options. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

According to the application Applicant was incorporated in the State of Texas on March 4, 1980, and reorganized as a Massachusetts business trust under the laws of the Commonwealth of Massachusetts on February 20, 1985. The application states that the Portfolios' primary investment objective is to seek a high level of current income, consistent with safety of principal. The Portfolios seek to achieve their investment objective by investing primarily in debt obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities. Applicant represents that a substantial portion of the High Yield Trust's assets are invested in certificates of the Government National Mortgage Association ("GNMA"). It is currently anticipated that a substantial portion of the Institutional Trust's assets will be invested in certificates of GNMA. Applicant states that the Portfolios also engage in the purchase and writing of put and call options on debt securities. Applicant further states that, to protect against changes in the general level of interest rates, the Portfolios may engage in the purchase and sale of interest rate futures contracts and options on such futures contracts.

Applicant states that the realization of gains from option transactions is a primary investment technique utilized by the High Yield Trust, and intended to

be utilized by the Institutional Trust, in pursuing their investment objectives. Applicant further states that the High Yield Trust has followed the practice, and the Institutional Trust intends to follow the practice, of making monthly distributions of net short-term capital gains. Applicant notes that effective July 1984, the Tax Reform Act of 1984 (the "1984 Amendments") amended section 1256 of the Internal Revenue Code and significantly altered the tax treatment of capital gains from options on U.S. Government securities, all of which have become Section 1256 contracts. Prior to the 1984 Amendments, gain or loss recognized with respect to options on U.S. Government securities was treated as short-term capital gain or loss. As a result of the 1984 Amendments, 60% of the gain or loss recognized with respect to options is now treated as long-term capital gain (or loss) and 40% is treated as short-term capital gain (or loss).

Applicant states that it understands that this change in the tax law was designed to eliminate certain tax abuses relating to the realization of short-term capital losses from options transactions. Applicant states, however, that the new characterization of 60% of the gain from options transactions as long-term capital gain would cause section 19(b) of the Act and Rule 19b-1 thereunder to apply to such transactions, which were not previously affected thereby. Applicant asserts that were the Portfolios able to distribute regularly capital gains from transactions in options, the investment policies of the Portfolios and the interests and goals of investors in the Portfolios would be better served.

Applicant represents that the Portfolios have the power to elect out of section 1256 with respect to covered options which are "mixed straddles" under section 1256(d), in which case all net gains from such options transactions would be treated as short-term capital gains and, hence, not restricted by section 19(b) of the Act or Rule 19b-1 thereunder. Such election, however, Applicant asserts, would deprive investors in a Portfolio of the benefits of the lower rates applicable to long-term capital gains on a portion of such Portfolio's distributions out of gains on such options transactions.

Applicant submits that the purposes of section 19(b) of the Act and Rule 19b-1 thereunder would not be served by a strict application of these provisions to 60% of the capital gains generated by options transactions, which are, as a result of the 1984 Amendments, now treated as long-term capital gains under Section 1256 of the Internal Revenue

Code, as amended. Applicant asserts that the characterization of these gains as long-term capital gains will not cause Portfolio shareholders to confuse such gains with dividends out of net interest income, since the Portfolios declare dividends of substantially all of their interest income, after expenses, on each day the New York Stock Exchange is open for business; distributions out of long-term capital gains on options transactions would be made monthly, along with distribution out of short-term capital gains. In addition, Applicant represents, the Portfolios will distinguish distributions of capital gains from distributions out of net interest income in an accompanying notice from the Portfolios to their shareholders as required by section 19(a) of the Act and Rule 19a-1 thereunder.

Applicant represents that the recharacterization of 60% of the capital gains from options transactions as long-term capital gain will affect neither the investment decisions nor distribution practices of the portfolio. Applicant asserts that the monthly distribution of long-term capital gains from options transactions will not materially increase administrative expenses of the Portfolio, because the High Yield Trust already distributes, and expects to continue to distribute, and the Institutional Trust intends to distribute, monthly short-term capital gains distributions.

Applicant believes that none of the policies underlying section 19(b) of the Act and Rule 19b-1 thereunder are applicable to the Portfolios' monthly distributions of gains from options transactions. Furthermore, Applicant believes that designating an appropriate part of each monthly distribution of gains from options transactions as long-term capital gain is in the best interest of its shareholders, since it will spread the benefit of the lower capital gains tax rate to persons who are shareholders at various points during the year. Applicant states that alternatively, the Portfolios would be required to designate their final distributions of gains with respect to each fiscal year, which are made shortly after the close of the fiscal year, as being the distribution of long-term capital gains. Applicant asserts that this approach would be disadvantageous to the Portfolios' shareholders since, for one thing, they might not receive the full tax benefit that section 1256 provides because a portion of the long-term capital gain realized on options transactions may not be designated as such if the portion exceeds the amount of the final distribution.

Applicant submits that an order granting it an exemption from section 19(b) of the Act and Rule 19b-1 thereunder to enable the Portfolios to make monthly distributions of long-term capital gains from transactions in options on certain U.S. Government securities, including GNMA's, would be appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86-2218 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14914 (812-6214)]

**Equitec Siebel Total Return Fund, Inc.;
Application for Order Permitting
Assessment (and Waiver) of a
Contingent Deferred Sales Charge**

January 27, 1986.

Notice is hereby given that Equitec Siebel Total Return Fund, Inc. ("Applicant"), 7677 Oakport Street, P.O. Box 2470, Oakland, CA 94614, filed an application on September 30, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of section 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 under the Act to the extent necessary to permit Applicant to assess a contingent deferred sales charge on certain redemptions of its shares, and to waive the contingent deferred sales charge in certain circumstances. All interested persons are referred to the application on file with the Commission for a statement of the representations

contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable statutory provisions.

Applicant states that it is an open-end, diversified, management investment company that was organized as a California corporation on October 9, 1984, and on December 4, 1985, its shareholders approved its reorganization into a series of a Massachusetts business trust offering several different classes of shares, each constituting a separate investment portfolio. Applicant will constitute one of the investment portfolios in the new series fund. Applicant seeks a Commission order on its own behalf and on behalf of any successor fund or funds organized as part of the series. Applicant states that its sponsor is Equitec Financial Group, Inc. ("Equitec"), a diversified financial services firm located in Oakland, CA; its investment adviser is Siebel Capital Management, Inc., a wholly-owned subsidiary of Equitec, and its distributor is Equitec Securities Corp. ("Distributor"), another wholly-owned subsidiary of Equitec.

Applicant states that it currently offers its shares for sale with a traditional front-end sales charge and it is now proposing to offer its shares without an initial sales charge but a sales charge may later be deducted from the proceeds of certain redemptions of shares of the Applicant if the shares are redeemed within five years of purchase. Applicant represents that the contingent deferred sales charge would be imposed if a shareholder redeems an amount which causes the current value of the shareholder's account with Applicant to fall below the total dollar amount of purchase payments made by the shareholder during the preceding five years. No contingent deferred sales charge will be imposed when the net asset value of the shares redeemed does not exceed: (i) The current net asset value of shares purchased more than five years prior to redemption, plus (ii) the current net asset value of shares purchased through reinvestment of dividends or distributions, plus (iii) increases in the net asset value of the shareholder's account above the total amount of payments for the purchase of Applicant's shares made during the preceding five years. Applicant states that at no time will such charge exceed 5% of the aggregate purchase payments made by the shareholder. Applicant proposes to waive the contingent deferred sales charge on certain redemptions described below.

According to the application, when determining the applicability of a contingent deferred sales charge to each redemption, shares will be redeemed first whose value equals the amount of any increase in the net asset value of the shareholder's account above the amount of the total payments for the purchase of shares within the last five years. In the event the redemption amount exceeds such increase in value, the next portion of the amount redeemed will be the amount which represents the net asset value of the shares purchased more than five years prior to the redemption and/or shares purchased through reinvestment of dividends or distributions. Any portion of the amount redeemed which exceeds an amount which represents both such increase in value and the value of shares purchased more than five years prior to the redemption and/or shares purchased through reinvestment of dividends or distributions will be subject to a contingent deferred sales charge.

When a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years that the redeemed shares have been held since their original purchase. During the first year after purchase, the charge would be five percent of the amount redeemed. That amount would drop by one percent per year until five years thereafter, at which time no charge would be imposed upon redemption. The amount of the contingent deferred sales charge (if any) is calculated by determining the date of the purchase payment which is the source of the shares to be redeemed and applying the appropriate percentage to the amount of the redemption subject to the charge.

Applicant proposes to finance its own distribution expenses pursuant to a plan (the "Plan") adopted pursuant to Rule 12b-1 under the Act. Applicant states that, under the Plan, Applicant will pay an annual fee of one percent to the Distributor for expenses incurred in connection with the offering of Applicant's shares. The Distributor also will receive the proceeds of the contingent deferred sales charge upon any redemption.

Applicant proposes to waive the contingent deferred sales charge with respect to the following redemptions of Applicant's shares: (i) Redemptions following the death or disability of a shareholder, (ii) redemptions in connection with certain distributions under a tax-deferred retirement plan, IRA, Keogh, or custodial account, (iii) redemptions of shares purchased for personal investment purposes by

officers and directors of Applicant, (iv) mandatory redemptions of small shareholder accounts, and (v) redemptions the proceeds of which are reinvested in Applicant's shares within 30 days pursuant to the one-time reinvestment privilege offered by Applicant.

The application also states that with respect to Applicant's existing shareholders who will already have paid an initial sales charge at the time the contingent deferred sales charge is implemented, Applicant's Distributor proposes to refund approximately 58.5% of any initial sales charge paid by them. Their shares will then become subject to the contingent deferred sales charge. In order to preserve for Applicant's shareholders the benefit of any discount in the initial sales charge that they may have received by purchasing larger amounts of Fund shares, Applicant will waive that portion of any contingent deferred sales charge which, when combined with the portion of their initial sales charge which was not refunded, results in a total sales charge that exceeds the initial sales charge they agreed to pay.

Applicant does not propose to treat as redemptions or impose any contingent deferred sales charge on exchanges of shares between it and any other funds or series offered by its Distributor which have similar plans of distribution and which impose similar contingent deferred sales charges, although a \$5.00 service fee will be charged on such exchanges. For purposes of determining any contingent deferred sales charge applicable to the redemption of exchanged shares, the date of purchase of the original fund or series shares will be used to measure the holding period of the redeemed shares.

Applicant submits that the exemptions requested are appropriate and in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Nonetheless, to avoid any possibility that questions may be raised as to the various definitional and regulatory sections of the Act, Applicant seeks an exemption to the extent necessary or appropriate from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) and Rule 22c-1.

Applicant contends that the imposition of the contingent deferred sales charge is fair and is in the best interests of all its shareholders. The proposed contingent deferred sales charge permits shareholders to have the advantages of greater investment dollars working for them from the time of their purchase of the shares.

Moreover, because the contingent deferred sales charge applies only to redemptions of amounts representing purchase payments, it does not apply to increases in the value of a shareholder's account through increases in net asset value per share, or to amounts representing reinvestment of distributions or dividends. Applicant further submits that waiver of the contingent deferred sales charge under the above-described circumstances will not harm Applicant or its remaining shareholders or unfairly discriminate among shareholders or purchasers. Additionally, Applicant represents that it will fully disclose all of the waiver provisions in its Prospectus and Statement of Additional Information.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 21, 1986, 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, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86-2219 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14911; 812-6271]

IRI Stock Fund, Inc., et al.; Application for an Order Pursuant to Section 11(a) of the Investment Company Act of 1940 Permitting Certain Offers of Exchange

January 24, 1986.

Notice is hereby given that IRI Stock Fund, Inc. ("Stock Fund"), Midas Gold Shares & Bullion, Inc. ("Midas") and IRI Securities Corporation (the "Underwriter"), (Stock Fund, Midas and the Underwriter, collectively, "Applicants") each at One Appletree Square, Minneapolis, Minnesota 55420, filed an application on December 27, 1985, and an amendment thereto on

January 17, 1986, for an order of the Commission pursuant to section 11(a) of the Investment Company Act of 1940 (the "Act") permitting certain offers of exchange. Applicants also request that such approval be made applicable to future open-end investment companies ("Additional Funds") for which the Underwriter serves as principal underwriter or distributor (Stock Fund, Midas and Additional Funds, collectively, the "Funds"). 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 applicable provisions thereof.

Applicants represent that Stock Fund and Midas are open-end investment companies that have filed registration statement under the Act and the Securities Act of 1933. Applicants further represent that said registration statements are currently effective and that shares of Stock Fund and Midas are being offered to the public on a continuous basis.

Applicants state that Fund/Plan Services, Inc. presently acts as transfer agent for Stock Fund and Midas and will also act as transfer agent for any Additional Funds. Applicants further state that the Underwriter serves as principal underwriter for Stock Fund and Midas, and that the Underwriter intends to maintain a continuous public offering of shares of Stock Fund and Midas at their respective net asset values per share plus a sales load. According to the application, the sales load for shares of Stock Fund is a percentage of the public offering price of such shares, which percentage varies with the amount of the investment in such shares in accordance with the following table:

Amount of investment	Sales charge as percentage of public offering price
Less than \$20,000	4.50
\$20,000 but less than \$35,000	4.00
\$35,000 but less than \$50,000	3.50
\$50,000 but less than \$75,000	3.00
\$75,000 but less than \$100,000	2.50
\$100,000 but less than \$200,000	2.00
\$200,000 but less than \$400,000	1.75
\$400,000 but less than \$700,000	1.50
\$700,000 but less than \$1,000,000	1.00
\$1,000,000 or more	.25

Applicants state that the sales load for shares of Midas is also a percentage of the public offering price of such shares, which percentage varies with the amount of the investment in such shares in accordance with the following table:

Amount of investment	Sales charge as percentage of public offering price
Less than \$20,000	6.00
\$20,000 but less than \$35,000	5.50
\$35,000 but less than \$50,000	5.00
\$50,000 but less than \$75,000	4.50
\$75,000 but less than \$100,000	4.00
\$100,000 but less than \$200,000	3.00
\$200,000 but less than \$400,000	2.00
\$400,000 but less than \$700,000	1.00
\$700,000 but less than \$1,000,000	.50
\$1,000,000 or more	.25

In addition, Applicants state that the Underwriter proposes to maintain in the future a continuous public offering of shares of the Additional Fund priced either: (i) At their respective net asset values per share plus a sales load not in excess of 8.5% of the public offering price of such shares or (ii) at their respective net asset values per share without a sales load.

Applicants seek authority to permit exchange offers under the following terms:

- (1) Shares of any Fund held for six months or more prior to the exchange may be exchanged for shares of any other Fund on the basis of the relative per share net asset values of the respective Funds at the time of the exchange without a sales charge.
- (2) Shares of any Fund held for less than six months prior to the exchange may be exchanged for: (a) Shares of any other Fund with an equivalent, lower or not sales charge on the basis of the relative per share net asset values of the respective Funds at the time of the exchange without a sales charge or (b) shares of any other Fund with a higher sales charge on the basis of relative per share net asset values of the respective Funds at the time of the exchange plus the difference between the sales charge applicable to the Fund whose shares are being acquired and the sales charge previously paid with respect to the shares being exchanged.

(3) In cases in which shares of a Fund have been acquired by exchange from a Fund having a higher sales charge, the higher sales shall be considered to have been previously paid in determining whether any additional sales charge is payable in the event such shares are further exchanged for shares of another Fund.

(4) Where fewer than all of a shareholder's shares are exchanged, those for which no or a lower additional sales charge would be payable will be exchanged first.

(5) Rights of accumulation and other arrangements described in the respective prospectuses allowing for reduced sales charges are applied to determine the sales charge applicable to

share of a Fund being acquired by exchange.

(6) An exchanging shareholder is charged an administrative fee of \$7.50 by the transfer agent of the Fund whose shares are being acquired. Applicants believe that the administrative fee is reasonable in light of the expenses incurred by the transfer agent in making book entries and taking such other action as is necessary to effect exchanges.

Applicants assert that the purpose of the exchange offers is to permit a shareholder of any one of the Funds to transfer into another Fund in the event that the shareholder's investment objectives change and to receive credit for any sales charge previously paid. Applicants further assert that the terms of exchange offers provide an equitable basis for an exchange of shares that do not discriminate unjustly against any class of investors. Applicants undertake that the order sought herein on behalf of the Additional Funds will be used only under the terms and conditions described in the application.

Applicants state that the Underwriter has the exclusive right to distribute shares of each of the Funds directly and through unaffiliated dealers who have sales agreements with the Underwriter. According to the application, where the shareholder is charged a differential in sales charge upon an exchange, the commission paid to the sales representative is less than it would be on a direct purchase of the shares being acquired. Therefore, Applicants do not believe there is sufficient financial incentive for a sales representative of the Underwriter to initiate exchanges for his or her own benefit. Applicants represent that the Underwriter has established sufficient internal monitoring and review procedures to ensure that exchanges are made at the request of the shareholder and not for the Underwriter's sales representative's personal gain.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order

disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2220 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14912; (File No. 811-4112)]

**Newton Tax-Free Fund, Inc.;
Application for an Order Declaring
That Applicant has Ceased to be an
Investment Company**

January 24, 1986.

Notice is hereby given that Newton Tax-Free Fund, Inc. ("Applicant"), 733 North Van Buren Street, Milwaukee, Wisconsin 53202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 9, 1986, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the applicable provisions thereof.

Applicant states that it is registered under the Act and filed a registration statement pursuant to section 8(b) of the Act on September 19, 1984, has not more than 100 securityholders for purposes of section 3(c)(1) of the Act and rules thereunder, has never made a public offering of its securities, and does not propose to make a public offering or engage in business of any kind. Applicant further states that it has not transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant, that it is not a party to any litigation or administrative proceeding and does not propose to engage in any business activities other than those necessary for winding-up its affairs. Finally, Applicant represents that it is incorporated in good standing under Maryland state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest,

the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2221 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23998; 70-7196]

**Vermont Yankee Nuclear Power Corp.;
Proposal To Issue and Sell Short-Term
Notes to Banks**

January 27, 1986.

Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), Brattleboro, Vermont, a nuclear generating subsidiary of New England Electric System and Northeast Utilities, both registered holding companies, has filed a declaration with this Commission subject to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(2) thereunder.

Vermont Yankee proposes to issue and sell \$16 million of short-term notes to banks (which would exceed 5% of the principal amount and par value of other securities of Vermont Yankee) through August 31, 1987. Assuming full borrowings under the lines and a prime rate of 9.5% per annum, the highest effective rate paid by Vermont Yankee for borrowings from any of the banks would be 10.05%.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 20, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the

issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-2212 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22833; File No. SR-CBOE-85-52]

**Self-Regulatory Organizations;
Proposed Rule Change by Chicago
Board Options Exchange, Inc.;
Relating to Currency Options**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Definitions

Rule 22.1. No change except to (b).

European Option

(b) The term "European option" means an option contract that [can be exercised only on the last trading day prior to the day it expires] *cannot be exercised before the last trading day prior to its expiration.*

Terms of Currency Option Contracts

Rule 22.4. No change (except to the last sentence as follows).

Currency options [can be exercised only on the last trading day prior to the option's expiration] *cannot be exercised before the last trading day prior to its expiration.*

Exercise of Currency Option Contracts

Rule 22.19 *The exercise cutoff time specified in Rule 11.1 shall not apply to currency option contracts.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to allow persons wishing to exercise currency option contracts to have as much time as possible to do so consistent with the rules of the Options Clearing Corporation, since the underlying foreign currencies continue to trade after the general exercise cutoff time established by Exchange Rule 11.1. The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that it is designed to facilitate transactions in foreign currency options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1986.

John Wheeler,
Secretary.

[FR Doc. 86-2207 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22835; File No. SR-CBOE-85-47]

Self-Regulatory Organizations; Chicago Board Options Exchange Inc.; Notice of Filing and Order Granting Immediate Effectiveness to Proposed Rule Change; Relating to Transaction Fees on Foreign Currency Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Pursuant to rule change filing SR-CBOE-85-37, the Exchange is not charging transaction fees on foreign currency option contracts until January 2, 1986. By this filing, the Exchange extends that date through Friday, February 28, 1986.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to encourage the trading of foreign currency option contracts. The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that it is designed to facilitate transactions in foreign currency options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Formal comments on the rule-change filing were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4 because it establishes or changes a due, fee or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Publication of the submission is expected to be made in the **Federal Register** during the week of January 27, 1986. Interested persons are invited to

submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the CBOE. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1986.

John Wheeler,
Secretary.

FR Doc. 86-2208 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22836; File No. SR-CBOE-86-2]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to Terms of Currency Options Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 13, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Terms of Currency Option Contracts

Rule 22.4. The Exchange shall determine the fixed-point intervals of exercise prices for currency option contracts. The exercise price of each series of currency options normally shall be fixed at a price per unit which is reasonably close to the range between the spot and the six-month forward prices. Currency options shall expire on the Saturday preceding the third Wednesday in the months designated by the Exchange, not to exceed six at any one time *and not more than 12 months out*. [The months available for trading will be the nearby two months and three further out months from the March cycle, except that initially the months of November, December, March, June and September will be available for trading.] Currency options can be exercised only on the last trading day prior to the option's expiration.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections, (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to give the Exchange the flexibility to have up to six expiration months in currency option contracts, ranging from one to twelve months out. The proposed rule change is designed to facilitate trading in currency option contracts by enabling the Exchange to list those expiration months in which the most interest is expected to exist. Therefore, the statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition, but rather believe that it will enhance competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1986.

John Wheeler,
Secretary.

[FR Doc. 86-2209 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22834; File No. SR-PSE-85-36]

Proposed Rule Change by the Pacific Stock Exchange Inc.; Relating to the Increased Usage of Hand Signals as a Means of Communications on the Options Floor

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1985, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.¹ 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 Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes to amend Options Floor Procedure Advice F-5, to permit increased usage of hand signals as a means of communications on the Options Floor. Currently, Exchange rules permit only the communication via hand signals of quotes and sizes, changes of price limits of orders, or their reduction in size or cancellation. The Exchange proposes through this rule change to additionally permit the increasing of an order's size and/or the activation of an order to market price by means of hand signals.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. 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 Change

The PSE is proposing to change its rule with respect to the use of hand

signals on the Options Floor to better facilitate the communication of order instructions across the trading floor. On September 8, 1984, the PSE relocated its Options Floor to a facility twice as large as its previous Floor. As a result, Floor Brokers and/or their clerks are required to travel further distances from booth to trading crowd in order to effect changes to existing orders. By adopting the proposed rule change, the PSE believes it will be reducing the amount of time required to effect such changes to outstanding orders in the crowd, hence benefitting the investing public.

The PSE notes that with one exception the proposed rule change will permit the same use of hand signal communication as provided for in the Chicago Board Options Exchange ("CBOE") Rule 6.24, Interpretation and Policy .02. Unlike the CBOE provision, however, the PSE proposal will not allow for the initiation of orders through the use of hand signals. Consequently, while the proposed rule change will expand the use of hand signals on the PSE Options Trading Floor, PSE rules will still be more stringent than that found on other exchanges.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received. However, the proposed rule change was considered and approved by the Board of Governors at its meeting of November 21, 1985.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the *Federal Register* or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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 Fifth Street, NW., Washington, DC 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 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 21, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

January 24, 1986.

[FR Doc. 86-2206 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

January 24, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Marshall Industries

Common Stock, \$1.00 Par Value (File No. 7-8779)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission.

¹ Amendment No. 1 to the proposed rule change was filed on January 6, 1986.

Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86-2213 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

January 27, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Carter Hawley Hale Stores, Inc.

Common Stock, \$5.00 Par Value (File No. 7-8780)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 17, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86-2214 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

January 24, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

General Motors Corporation
Class H Common Stock, \$10 Par Value (File No. 7-8778)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 14, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

FR Doc. 86-2215 Filed 1-30-86; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

**Form Under Review by the Office of
Management and Review**

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance

Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: Regular Submission.

Title of Information Collection: Power Distribution Monthly Report to TVA.

Frequency of Use: Monthly.

Type of Affected Public: Businesses or other for-profit and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 1920.

Estimated Total Annual Burden Hours: 960.

Need For and Use of Information: This monthly collection supplies TVA with financial information to assist in making timely management decisions on electric power rates, finances, and other long- and short-term plans.

Type of Request: Regular Submission.

Title of Information Collection: Power Distributors Annual Report to TVA.

Frequency of Use: Annually.

Type of Affected Public: Businesses or other for-profit and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 160.

Estimated Annual Burden Hours: 3200.

Need For and Use of Information: This annual collection supplies TVA with detailed financial and accounting information to ensure that electric power produced by TVA is sold to consumers at rates which are as low as feasible.

Date: January 23, 1986.

John W. Thompson,
Manager of Corporate Services, Senior
Agency Official.

[FR Doc. 86-2112 Filed 1-30-86; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Access and Capacity; Public Hearing

Summary: The Federal Aviation Administration (FAA) will hold three public hearings to receive comments, suggestions, and information on a proposed airport access and capacity policy published in the *Federal Register* on January 22, 1986, (51 FR 2985). The public is encouraged to attend and present their views at these hearings. The first meetings are scheduled for two days each in Washington, DC, and Denver, Colorado.

The Washington, DC, hearings will be held in the auditorium (3rd floor) at FAA Headquarters, 800 Independence Avenue, SW., Washington, DC, on February 20 and 21. The Denver, Colorado, hearings will be held in the lecture hall of building 25 at the Denver, Colorado, hearings will be held in the lecture hall of building 25 at the Denver Federal Center, 6th Avenue and Kipling Street, Denver, Colorado, on March 5 and 6.

Both hearings will be open to the public from 9 a.m. to approximately 5 p.m. on the scheduled days. The second day of each meeting will be ended after all present have been given an opportunity to speak.

A third public hearing will be held in Los Angeles, California, in late March or early April. The date and location of this hearing will be published in the *Federal Register* at least 30 days in advance of the hearing.

Background: The FAA intends to clarify the Federal position on provision and management of capacity in the National Airport and Airway System. In developing the Federal position, the FAA has published a proposed policy that describes a possible Federal position on airport access and capacity issues and requests public comments on the proposed policy and on issues relevant to developing an airport access and capacity policy to serve the public interest.

The public hearings scheduled above afford interested parties equitable opportunity to present their views on the issues and the policy proposed by the FAA. Persons wishing to make a presentation at either scheduled hearing should advise Carol Strong, Office of Aviation Policy and Plans, Federal Aviation Administration, Washington, DC 20591, Telephone: (202) 426-3331.

Address: Send written comments on the proposed airport access and capacity policy (51 FR 2985) in duplicate

to: Gary L. Olin, Economic Analysis Branch (APO-220), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may be examined at the above address, Room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. For further information, contact Gary L. Olin at (202) 426-3420. Issued in Washington, DC, on January 27, 1986.

John M. Rodgers,

Acting Director of Aviation Policy and Plans.

[FR Doc 86-2182 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Weight-Distance Truck Tax Study; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: Section 933 of the 1984 Deficit Reduction Act (DRA), requires the Secretary of Transportation in consultation with the Secretary of the Treasury to conduct a study to evaluate the feasibility and ability of a Federal weight-distance tax to: (1) Provide the greatest degree of equity among users; (2) ease the cost of compliance for Federal highway use taxes; (3) improve the efficiency by which the use taxes might be administered; (4) evaluate the evasion potential; and (5) assess the benefits to interstate commerce.

It is intended that the Federal weight-distance tax would replace all Federal heavy vehicle taxes (other than fuel) and would apply only to heavy vehicles where the fuel tax did not generate sufficient revenues to cover their cost responsibility. The report is due to Congress by October 1, 1987.

The purpose of this notice is to announce a public meeting to hear comments on the study approach.

DATE: The meeting will be held from 9:00 a.m. to 4:00 p.m. on March 19, 1986, in Washington, DC.

ADDRESS: The meeting will be held in Room 2230 of the Department of Transportation's Headquarters Building (Nassif Building), 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: In FHWA: Mr. James R. Link, Chief, Highway Revenue Analysis Branch, (202) 426-0570; or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0570, 400 Seventh Street, SW., Washington, DC 20590. In the Internal Revenue Service (IRS): Mr. Milton Wells, Legislative Analysis Division,

(202) 566-4096, 1111 Constitution Avenue NW., Room 3238, Washington DC 20224.

SUPPLEMENTARY INFORMATION:

Background

Sections 933 of the Deficit Reduction Act of 1984 (Pub. L. 98-369, 98 Stat. 494) directs the DOT, in consultation with the Secretary of the Treasury to conduct a study of the feasibility and ability of weight-distance truck taxes to provide equity among highway users, to ease compliance costs, and improve administrative efficiency. Further, the study is to evaluate the evasion potential of such taxes and assess the benefits to interstate commerce of replacing all Federal heavy vehicle taxes, except the fuel taxes, with a weight-distance tax. A final report on this subject, together with recommendations the Secretary of Transportation may deem advisable, is to be submitted to Congress no later than October 1, 1987.

The FHWA has explicitly structured the study to keep the public informed and to solicit their comments. The FHWA published an initial study plan in the *Federal Register* on April 17, 1985 (50 FR 15270), and requested comments to the Docket (85-20) which is open until October 1, 1986. The FHWA has consulted with the trucking industry, State transportation departments and State tax representatives, and will continue to do so in a variety of ways throughout the study. Methods of consultation include:

- Asking individuals and organizations to review draft interim study reports.

- Holding at least one public meeting.

- Sponsoring a workshop for Federal, State, and trucking industry representatives to evaluate five alternative Federal/State administrative plans.

- Making presentations to relevant advisory committees and professional organizations regarding the study.

- Meeting with interested organizations to discuss the attached detailed work plan.

Study Approach

The FHWA is the lead agency for the national weight-distance tax study. The overall technical approach is to:

- Prepare a working paper to analyze alternative weight-distance tax options.

- Document the administrative procedures for the current Federal truck taxes (heavy vehicle use, truck sales, tire and diesel differential).

- Identify at least two weight-distance tax options and develop at

least two plans for administering a national weight-distance tax. One plan would involve only Federal agencies and the other plan would be a Federal/State cooperative effort.

—Assess the feasibility of the tax options and administrative plans using the criteria provided by the Congress under Section 933 of the 1984 DRA.

—Compare the existing tax structure to alternative weight-distance tax and the existing administrative structure to alternative weight-distance tax administrative plans.

Briefing Package

A briefing package describing the study approach in more detail was distributed to industry representatives and others in December 1985 by FHWA. The package contains four sections:

- Section 1—Overall study approach;
- Section 2—Chronology of completed work;
- Section 3—Tasks underway and future direction of the study;
- Section 4—Request for comments on the weight-distance tax study approach and activities presented.

Working Paper

In February 1986, the FHWA will make available a working paper that will focus on the development and screening of alternative national weight-distance taxes. It will summarize:

- Past major weight-distance tax studies;
- Characteristics of State weight-distance taxes;
- Components of a national weight-distance tax;
- Analysis of tax options based upon the criteria provided by Congress;
- Recommended tax options;
- Approach for developing tax rates and schedules.

Public Meeting

A public meeting will be held March 19, 1986, in Washington, DC, to discuss the overall approach, the working paper and findings to date of the national weight-distance tax study. The meeting will be conducted by representatives from the Department of Transportation and the Internal Revenue Service. The meeting will enable participants to present their written comments and make an oral summation for the record that should not exceed 10 minutes in duration. The public meeting is a forum for presentation not debate. The presentations that will be the most helpful are those supported by factual material. Statements should be based on a review of the study approach described in the briefing package and the working paper. The briefing package

is available now and the working paper will be available in February. Both may be requested from Mr. James R. Link whose address is provided in the section titled, "For Further Information Contact." Those wishing to speak should contact Mr. Link in advance of the meeting to be placed on the roster. Oral presentations will be recorded and transcribed. Written statements sent by mail to Mr. Link will be accepted.

Issued: January 23, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-2110 Filed 1-30-86; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Hazardous Materials; List of Excepted Thermal Protection Systems for Tank Cars

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Announcement of current list of excepted thermal protection systems for DOT Specification 105, 111, 112 and 114 tank cars.

SUMMARY: This notice announces the current list of thermal protection systems which may be used without further test verification on DOT Specification 105, 111, 112 and 114 tank cars to satisfy thermal protection retrofit requirements published under Docket HM-144, Docket HM-174 and HM-175. The current list of 36 Thermal protection systems includes the 20 systems previously announced and adds systems 21 through 36.

ADDRESS: The current list of excepted systems and the test results upon which the list is based are available for public review during the hours 8:30 a.m.—5 p.m., Monday through Friday in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590 (202-426-3148).

FOR FURTHER INFORMATION CONTACT: Alfred Brooks, Office of Safety, Federal Railroad Administration, Washington, DC 20590, 202-426-0912.

SUPPLEMENTARY INFORMATION: The thermal protection systems listed herein do not require further test verification under § 179.105-4 (d) and (e), Title 49, Code of Federal Regulations (49 CFR), because they have been shown to meet those requirements by tests conducted at the Federal Railroad Administration's Transportation Test Center in Pueblo, Colorado. In addition, systems 16 through 26 inclusive and 30 through 36

inclusive listed herein meet the requirements of § 179.105-7(c)(2) and § 179.105-7(d)(2). Systems 1 through 4 were listed in the preamble of Docket HM-144, Amdt. No. 179-9, which imposed certain retrofit requirements on the use of DOT Specification 112 and 114 tank cars (42 FR 46306, September 15, 1977). An editorial document correcting the manufacturer's name in system 1 and correcting the name of a component material in system 3 was published on January 16, 1978, (43 FR 2180). Systems 5 through 7 were listed in a notice published November 2, 1978, (43 FR 51182). Systems 8 through 10 were listed in a notice published on July 2, 1979, (44 FR 38693). System 11 was listed in a notice published on May 5, 1980, (45 FR 29655). Systems 12 through 20 were listed in a notice published on August 23, 1984, (49 FR 33524).

Systems 21 through 36 are new and have not been previously published. This list of thermal protection systems remains open for additional entries. Systems that may be submitted to the Federal Railroad Administration in the future and which are shown to meet the test specifications in 49 CFR 179.105-4 will also be excepted from the test verification requirements and added to this list. The current list follows:

List of Excepted Thermal Protection Systems for DOT Specification 105, 111, 112 and 114 Tank Cars

1. One inch minimum thickness Deltaboard (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, (Deltaboard), Rock Wool Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Two mils (dry) of "Thermolag Primer-351" is applied to the clean surface. One hundred sixty-five mils (dry) of "Thermolag 330-1 Subliming Compound" is next applied to the primed surface. Five mils (dry) of "Thermolag Topcoat 350" is applied to the subliming coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease and loose material. Three mils (dry) of primer (Military Standard MIL-P-5219B) are applied to the clean surface. Chicken wire (1" hexagonal, 22-gauge) is next attached to the primed surface. One hundred eighty mils (dry) of CharteK 59 thermal coating is then applied. Three mils (dry) of a topcoat (AMERCOAT 383) is then applied. Topcoat manufacturer, Ameron, Brea, California.

Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface paint, primer, grease and loose material. Seven-tenths mil (dry) of primer (a 2:1 ratio by volume of 513-003 base component and 9110 x 350, activator component) is applied to the clean surface. Two hundred thirty-five mils (dry) of thermal shield coating (a nominal 5:1 ratio by volume of 821 x 359 base component and 9110 x 407 activator component) is next applied to the primed surface. Two mils (dry) of topcoat (a 2:1 ratio by volume of 821 x 317 base component and 9110 x 376 activator component) is applied to the thermal shield material.

5. One inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock & Wilcox, Augusta, Georgia.

6. Sixty-five one hundredths inch minimum thickness Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Fiberfrax), Carborundum Company, Niagara Falls, New York.

7. One inch minimum thickness of HILBLOK 1212 (minimum density of 12.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (HILBLOK 1212), Holmes Insulations Limited, Toronto, Ontario, Canada.

8. One and one-half inches minimum thickness of Tank Wrap Insulation (minimum density of six pounds per cubic foot) compressed to a 1 inch thickness and encased in an 11-gauge steel jacket. Manufacturer (Tank Wrap Insulation), Forty-Eight Insulations, Inc., Aurora, Illinois.

9. Six-tenths inch minimum thickness of Cerawool Blanket (minimum density of four pounds per cubic foot) and 0.4 inches minimum thickness of air encased in an 11-gauge steel jacket. Manufacturer (Cerawool Blanket), Johns-Mansville, Denver, Colorado.

10. Fifty-two one hundredths inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock and Wilcox Refractories Division.

11. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of seven pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, United States Gypsum Company, Chicago, Illinois.

12. Two inches minimum thickness of fiberglass encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3

Primer" applied to the steel jacket and 0.125 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

13. Two inches minimum thickness of polyurethane encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to steel jacket and 0.125 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

14. Two inches minimum thickness of fiberglass encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket and 0.135 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

15. Two inches minimum thickness of polyurethane encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket and 0.135 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

16. Two inches minimum thickness of fiberglass encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket, and 0.188 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer, and 0.005 inches minimum dry film thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

17. Two inches minimum thickness of polyurethane encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket, and 0.188 inches minimum dry film thickness of "Thermo-Lag 330-3 Subliming Coating" applied over the primer, and 0.005 inches minimum dry film thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

18. Two inches minimum thickness of polyurethane foam insulation encased in an 11-gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer (Military Standard MIL-P-52192B, Mobil 13-R-56, or equivalent) is applied to the clean surface. A minimum dry film thickness of 0.210 inches of Chartek 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO, Inc., Lowell, Massachusetts.

19. Two inches minimum thickness of fiber glass insulation encased in an 11-gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer (Military Standard MIL-P-52192B, Mobil 13-R-56, or equivalent) is applied to the clean surface. A minimum dry film thickness of 0.180 inches of CHARTEK 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO, Inc., Lowell, Massachusetts.

20. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of seven pounds per cubic foot) with a foil scrim polyethylene facing; and 4 inches minimum thickness, compressed to 3 inches, of fiberglass; encased in an 11-gauge steel jacket. The Thermafiber is to be placed adjacent to the tank car tank surface and the fiberglass is to be placed adjacent to the jacket surface. Manufacturer, United States Gypsum Company, Chicago, Illinois.

21. Two inches minimum thickness of polyurethane foam insulation encased in an 11-gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer (Military Standard MIL-P-52192B, Mobil 13-R-56, or equivalent) is applied to the clean surface. A minimum dry film thickness of 0.18 inches of CHARTER 59 fireproofing is then applied to the cured primer surface.

22. One-half inch minimum thickness of Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot and compressed to no less than one-quarter inch) encased in an 11-gauge steel jacket with froth-in-place rigid urethane foam. The total thickness of Fiberfrax insulation and the urethane

foam to be no less than 2 inches.

Manufacturer, Carborundum Company, Niagara Falls, New York.

23. One-inch minimum thickness of Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot and compressed to no less than 0.54 inches) encased in an 11-gauge steel jacket with froth-in-place rigid urethane foam. The total thickness of the Fiberfrax insulation and the urethane foam to be no less than 2 inches. Manufacturer, Carborundum Company, Niagara Falls, New York.

24. Fifty hundredths inch minimum thickness of Fiberfrax tank car insulation (minimum density of 4.3 pounds per cubic foot) and four inches minimum thickness of fiberglass (compressed to 3.5 inches), encased in an 11-gauge steel jacket. The Fiberfrax is to be placed adjacent to the tank car surface and the fiberglass is to be placed adjacent to the jacket. Manufacturer (Fiberfrax), The Carborundum Company, Niagara Falls, New York.

25. One and one-half inches minimum thickness of "Tank Car Insulation" (minimum density of six pounds per cubic foot) and three inches minimum thickness of fiberglass (compressed to two and one-half inches encased in an 11-gauge steel jacket. Manufacturer (Tank Car Insulation), Fibrex Inc., Aurora, Illinois.

26. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of seven pounds per cubic foot) with a foil scrim polyethylene facing; and one inch minimum thickness of polyethylene facing; and one inch minimum thickness of polyurethane foam; encased in an 11-gauge steel jacket. The Thermafiber is to be placed adjacent to the jacket surface. Manufacturer, United States Gypsum Company, Chicago, Illinois.

27. Two inches minimum thickness of fiberglass encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket and 0.180 inches minimum dry film thickness of "Thermo-Lag 330-30 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

28. One inch minimum thickness of polyurethane encased in an 11-gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351-3 Primer" applied to the steel jacket and 0.180 inches minimum dry film thickness of "Thermo-Lag 330.30 subliming Coating" applied over the Primer and 0.005 inches minimum thickness of

"Thermo-Lag 350-3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

29. One-half inch minimum thickness of Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Fiberfrax), Carborundum Company, Niagara Falls, New York.

30. The tank car external surface is prepared by sandblasting to move all existing paint, primer, oil, grease and loose material. Three mils (dry) of primer (Military Standard MIL-P-52192B) are applied to the clean surface. Chicken wire mesh (1" hexagonal, 22 gauge) may next be attached to the primed surface if desired. One hundred eighty mils (dry) of Chartek 59 thermal coating is then applied. Three mils (dry) of a topcoat (AMERICOAT 383) is then applied. Topcoat manufacturer, Ameron, Brea, California. Manufacturer (Chartek 59), AVCO, Lowell, Massachusetts.

31. Two inches minimum thickness of polyurethane foam insulation encased in an 11-gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of MIL-P-52192B, Mobil 13-R-56, or equivalent, is applied to the clean surface. Chicken wire mesh (1" hexagonal, 22-gauge) may next be attached to the primed surface if desired. A minimum dry film thickness of 0.180 inches of Chartex 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO Inc., Lowell, Massachusetts.

32. One-inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) and four inches minimum thickness of fiberglass (compressed to 3.0 inches), encased in an 11-gauge steel jacket. The Kaowool is to be placed adjacent to the tank car surface and the fiberglass is to be placed adjacent to the jacket. Manufacturer (Kaowool), Babcock and Wilcox, Augusta, Georgia; and

33. Fifty-two hundredths inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) and four inches minimum thickness of fiberglass (compressed to 3.5 inches), encased in an 11-gauge steel jacket. The Kaowool is to be placed adjacent to the tank car surface and the fiberglass is to be placed adjacent to the jacket. Manufacturer (Kaowool), Babcock and Wilcox, Augusta, Georgia.

34. Two inches minimum thickness of fiberglass insulation encased in an 11-gauge steel jacket. The external jacket surface is blasted to the requirements of steel structures painting council surface

preparation specification number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer. (Military Standard MIL-P-52192B, Mobil 13-R-56, or equivalent) is applied to the clean surface. Chicken wire mesh (1" hexagonal, 22 gauge) may next be attached to thickness of 0.180 inches of Chartex 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO, Inc., Lowell, Massachusetts.

35. One-inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) and four inches minimum thickness of fiberglass (compressed to 3.0 inches), encased in an 11-gauge steel jacket. The Kaowool is to be placed adjacent to the tank car surface and the fiberglass is to be placed adjacent to the jacket. Manufacturer (Kaowool), Babcock and Wilcox, Augusta, Georgia; and

36. 0.52 inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) and four inches minimum thickness of fiberglass (compressed to 3.5 inches), encased in an 11-gauge steel jacket. The Kaowool is to be placed adjacent to the tank car surface and the fiberglass is to be placed adjacent to the jacket. Manufacturer (Kaowool), Babcock and Wilcox, Augusta, Georgia.

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A, to Part 1, paragraph (a)(4) of App. A to Part 106.

Issued in Washington, DC, on January 23, 1986.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR. Doc. 86-2118 Filed 1-30-86; 8:45am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86-11]

Recordation of Trade Name— "Supreme Import Export Co., Inc.,"

AGENCY: Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On March 14, 1985, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Supreme Import Export Co., Inc." was published in the *Federal Register* (50 FR 10341). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to

the recordation and received not later than May 31, 1985.

Supreme International Corporation commented in opposition to the recordation of the trade name citing concern that because "Supreme Import Export Co., Inc." is confusingly similar to Supreme International Corporation it might be restrained from participating in import transactions under their established name.

Supreme Import Export Co., Inc. has indicated that it has no objection to goods arriving in the United States for Supreme International Corporation. Therefore, goods bearing the name "Supreme International Corporation" shall not be seized or detained as confusingly similar to "Supreme Import Export Co., Inc."

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "Supreme Import Export Co., Inc." is recorded as the trade name used by Supreme Import Export Co., Inc., a corporation organized under the laws of the State of New York, located at 900 Broadway, New York, New York 10003. The trade name is used in connection with the following merchandise manufactured in Hong Kong, Korea, Japan, Taiwan and the Philippines; playing cards; cigarette lighters; cellophane tape; toothbrushes; padlocks; cassette tapes; pens; batteries; cameras and curling irons.

EFFECTIVE DATE: January 31, 1986.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

Dated: January 24, 1986.

Edward T. Rosse,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 86-2139 Filed 1-30-86; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Grants Program; 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.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

Enhancement Program on the Study and Formulation of United States Foreign Policy: The Office of Private Sector Programs (E/P) plans to support a fourteen day international exchange program for temporary resident Chinese scholars and graduate students in the social sciences. This program, tentatively scheduled for May or June 1986, will include an introductory workshop, a delegation visit to one or two university centers, and a series of meetings and briefings in Washington, DC. Discussions will focus on the study of foreign policy and the relationship between domestic and international issues. Participants will also explore several case studies on U.S. foreign policy decision making, and examine the role and significance of private sector research institutions and foreign affairs organizations. Institutions choosing to compete for this program must demonstrate both logistical and administrative capability as well as programmatic competence.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above project.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Furthermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information.

To be eligible for consideration, organizations must postmark their general letter of interest within 20 days of the date of this notice.

This is a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the financial assistance available.

Office of Private Sector Programs,
Bureau of Educational and Cultural Affairs (ATTN: Initiative Programs),
United States Information Agency, 301
4th Street, SW., Washington, DC
20547.

Dated: January 24, 1986.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 86-2226 Filed 1-30-86; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

New Medical Center, Palm Beach County, FL; Availability of the Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement, Veterans Administration Medical Center, Palm Beach County, Florida," dated January 1986, has been prepared as required by the National Environmental Policy Act of 1969. The document is in two volumes: The body of the report and the appendices.

The Environmental Impact Statement evaluates the potential environmental impacts of development of a new Veterans Administration Medical Center at any of five alternative locations in northeastern Palm Beach County. The "No Action" alternative is also included in the evaluation.

The document is available for public examination in the Veterans Administration office in Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Director, Office of Environmental Affairs (088B), Room 419, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2922. Questions or requests for single copies of the Environmental Impact Statement and/or the Appendices may be addressed to the above office.

Dated: January 27, 1986.

By direction of the Administrator.

Everett Alvarez, Jr.

Deputy Administrator.

[FR Doc. 86-2164 Filed 1-30-86; 8:45 am]

BILLING CODE 8320-01-M

Guidelines for Compliance With Equal Opportunity Laws by Proprietary Educational Institutions

AGENCY: Veterans Administration.

ACTION: Notice of Guidelines and Request for Comments.

SUMMARY: These guidelines are published to promote compliance with equal opportunity laws which prohibit discrimination on the grounds of race, color, national origin, sex, handicap, and age by proprietary educational institutions whose programs are approved for training veterans and other eligible beneficiaries under chapters 15, 30, 31, 32, 34, 35 and 36 of title 38, United States Code. These guidelines also apply to certain educational programs and activities receiving Federal financial assistance from the Department of Education. Civil rights laws from which these guidelines are derived include: 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.

DATE: Comments must be received on or before March 3, 1986.

ADDRESS: Comments on these proposed guidelines should be submitted to: Veterans Assistance Service (273), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Melvin T. Jackson, (202) 389-2095.

SUPPLEMENTARY INFORMATION: By authority of Executive Order 12250 (November 2, 1980) and Federal Regulations codified in 28 CFR Part 41 and Part 42, Subpart F, the Attorney General provided guidelines and instructions for compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Similarly, the Secretary of HHS (Department of Health and Human Services) through governmentwide regulations codified in 45 CFR Part 90, established guidelines for compliance with the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.).

Governmentwide guidelines established by the Attorney General and the Secretary of the HHS direct Federal departments and agencies to develop regulations to implement the laws cited above and to publish guidelines for each type of program to which they extend Federal financial assistance. Agency guidelines are to provide detailed

information on compliance requirements for Title VI, Title IX, Section 504, and the Age Discrimination Act.

The Veterans Administration issues these guidelines in accordance with governmentwide directives for the purpose of providing instructions to proprietary educational institutions which receive Federal financial assistance from the Veterans Administration or the Department of Education, and which offer courses not leading to a standard college degree. These guidelines describe the general requirements for compliance with applicable civil rights laws, procedures followed by the Veterans Administration to assure compliance, examples of prohibited practices, and requirements related to covered employment, data collection, and complaint processing procedures.

Dated: January 27, 1986.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Guidelines for Compliance With Equal Opportunity Laws by Proprietary Educational Institutions

I. Scope and Coverage

1. Purpose and Application.
2. Nature of Equal Opportunity Coverage.
3. Definitions.

II. Prohibition Against Discrimination

1. Discrimination Prohibited.
2. Exceptions to the Prohibitions Against Discrimination.
3. Covered Employment.

III. Recipient Compliance Responsibilities

1. Data Collection and Reporting.
2. Dissemination of Information.
3. Self-Evaluation.

IV. Compliance Procedures

1. Recipient Compliance Requirements.
2. Agency Compliance Requirements.
3. Complaint Processing Procedures.
4. Procedures for Effecting Compliance.

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq.; E.O. 12250, 45 FR 72995, November 4, 1980; Department of Justice Coordination Regulations, 28 CFR Part 41 and Part 42, Subpart F; Department of Health and Human Services Governmentwide Age Discrimination Regulations, 45 CFR Part 90; Veterans Administration Regulations, 38 CFR Part 18.

I. Scope and Coverage

1. Purpose and Application

(a) The purpose of these guidelines is to provide detailed information on the compliance requirements of 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 which prohibit discrimination on the grounds of race, color, national origin (Title VI), sex (Title IX), handicap (Section 504), and age (Age Discrimination Act) in any program or activity receiving Federal financial assistance.

(b) These guidelines apply to proprietary educational institutions whose programs are approved for training veterans and other eligible beneficiaries under chapters 15, 30, 31, 32, 34, 35, and 36 of Title 38, United States Code. The Secretary of the ED (Department of Education) has delegated to the Administrator of Veterans Affairs the authority to perform responsibilities of the ED under Title VI with respect to: proprietary (i.e., other than public or nonprofit) educational institutions, except if operated by a hospital; and postsecondary, nonprofit educational institutions other than colleges and universities, except if operated by a college or university, a hospital, or a unit of State or local government (i.e., those operating such institutions as an elementary or secondary school, an area vocational school, or a school for the handicapped).

(c) These guidelines are provided to ensure that Federal employees, applicants for, recipients and beneficiaries of, and other persons affected by or interested in Federal financial assistance extended by the VA (Veterans Administration) and the ED in support of education and training programs in proprietary educational institutions are aware of rights and responsibilities under Title VI, Title IX, Section 504, and the Age Discrimination Act.

2. Nature of Equal Opportunity Coverage

(a) The Department of Veterans Benefits is responsible for ensuring equal opportunity compliance in proprietary, NCD (non-college degree), educational institutions. In keeping with the delegation agreement between the VA and ED, VA's responsibility to ensure equal opportunity compliance also extends to those proprietary, NCD institutions which receive Federal

financial assistance from or through the ED.

(b) In 1968, the Attorney General ruled that educational institutions which trained veterans and other eligible beneficiaries under programs which make education benefit payments directly to veterans or eligible beneficiaries were themselves in receipt of Federal financial assistance as a result of the payments made to veterans and other eligible beneficiaries. This principle was upheld in *Bob Jones University v. Johnson*, 396 F. Supp. 597 (D.S.C. 1974), aff'd per curiam, 529 F. 2d 514 (4th Cir. 1975). Thus, Title VI, Section 504, Title IX and the Age Discrimination Act apply to educational institutions attended by veterans or eligible beneficiaries who receive educational benefit payments from the VA. The law protects aliens as well as United States citizens, and every applicant or enrollee, not just those who receive Federal benefit payments.

3. *Definitions.* (For the purposes of these guidelines):

(a) "Administrator" means the Administrator of Veterans Affairs, U.S. Veterans Administration.

(b) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, matriculation, or participation in or at an educational program or activity operated by a recipient.

(c) "Age" means how old a person is or the number of years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term (for example, "18 or over").

(e) "Agency" means the Veterans Administration.

(f) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(g) "Applicant" means one who submits an application, request, or plan required to be approved by an agency official or by a recipient as a condition for eligibility for Federal financial assistance.

(h) "Covered employment" means employment practices covered by Title VI, Title IX, Section 504, and the Age Discrimination Act. Such practices are those which refer to the normal employment activities of the recipient, those that exist in a program where a primary objective of the Federal financial assistance is to provide employment, or those which cause discrimination on the basis of race, color, national origin, sex, handicap, or age with respect to beneficiaries or

potential beneficiaries of the assisted program.

(i) "Facility" refers to any educational institution which receives Federal financial assistance from the VA or ED.

(j) "Federal financial assistance" includes: (i) Grants of Federal funds, (ii) grants or donations of Federal property or interests in property, (iii) detail of Federal personnel, (iv) the sale of, lease of, and the permission to use (on other than a casual or transient basis) Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (v) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(k) "Handicapped person" means any person who: (i) Has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having an impairment.

(l) "Normal operation" means the operation of a program of activity without significant changes that would impair its ability to meet its obligations.

(m) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term includes, but it is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism, when current use of drugs and/or alcohol is not detrimental to or does not interfere with one's performance, does not constitute a direct threat to property or safety of others, or does not involve an illegal use of a controlled substance.

(n) "Program," except those specifically excluded in 38 CFR 18.2, includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals conducted under a law administered by the VA, including, but not limited to, the programs and

activities listed in Appendix A to 38 CFR Part 18.

(o) "Proprietary educational institution" means a privately owned school.

(p) "Qualified handicapped person" means: (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to other services, a handicapped person who meets the essential requirements for the receipt of such services.

(q) "Recipient" means any State, political subdivision of any State, instrumentality of any State or political subdivision, any public or private agency, institution, organization, any other entity, or any individual in the United States to whom Federal financial assistance is extended directly or through another recipient for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any program.

(r) "Responsible agency official," with respect to any program receiving Federal financial assistance, means the Administrator or other official of the VA or an official of another department or agency to the extent the Administrator has delegated authority.

(s) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal, State, or local statute or ordinance adopted by an elected, general purpose, legislative body.

II. Prohibition Against Discrimination

1. Discrimination Prohibited

(a) General. No person in the United States, including a qualified handicapped person, shall, on the ground of race, color, national origin, handicap, sex or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) Specific Discriminatory Actions Prohibited. A recipient, under any program providing an aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, in the following or in other instances, on the ground of race, color, national origin, handicap, sex, or age:

(i) Deny a person, including a qualified handicapped person, the opportunity to participate in a program or benefit from the aid, benefit, or

service which is equal to that afforded others;

(ii) Afford a person, including a qualified handicapped person, an opportunity to participate in a program or benefit from the aid, benefit or service which is not equal to that afforded others;

(iii) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(iv) Deny a person, including a qualified handicapped person, the opportunity to participate as a member of a planning or advisory board;

(v) In determining the site or location of a facility, make selections with the purpose or effect of excluding individuals, including qualified handicapped individuals, or denying them the benefits of or subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance;

(vi) Use criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, national origin, handicap, sex, or age or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, sex, or age or individuals having a particular handicap;

(vii) Treat an individual differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefits provided under the program or activity;

(viii) Apply different rules concerning the domicile or residence of a student or applicant;

(ix) Provide toilet, locker room, and shower facilities for students of one sex which are not comparable to similar facilities for students of the other sex;

(x) Provide any course or otherwise carry out any of its education program or activity separately on the basis of sex or require or refuse participation by any of its participants on that basis, except in physical education activities which involve bodily contact.

(xi) Discrimination against any person in counseling or guidance;

(xii) Discriminate in providing a medical, hospital, accident or life

insurance benefit service, policy, or plan to any of its students; or

(xiii) Discriminate against any student or trainee or exclude any student or trainee from its education program or activity, including any class, training session, or extra-curricular activity, on the basis of the trainee's or student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

2. Exceptions to the Prohibitions Against Discrimination

(a) General. Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 prohibit discrimination on the grounds of sex, handicap and age, respectively, in programs or activities receiving Federal financial assistance. Each of these laws, however, provides for certain exceptions to the prohibitions against discrimination.

(b) Specific exceptions to the prohibitions against discrimination. A recipient, under certain conditions, may take an action otherwise prohibited by Title IX, Section 504, and the Age Discrimination Act. Specific exceptions to the prohibitions against discrimination which are applicable to proprietary educational institutions include, but are not limited to:

(i) *Title IX*.—(A) Educational institutions controlled by religious organizations if the application of the law would conflict with the religious tenets of the organization;

(B) Educational institutions whose main purpose is the training of individuals for the U.S. military services or the merchant marines;

(C) Membership practices of social fraternities and sororities and certain other voluntary youth organizations exempted by Pub. L. 93-568, 88 Stat. 1855;

(D) In admissions, inquiries as to the sex or marital status of an applicant, but only if the inquiry is made of all applicants and if the results of the inquiry are not used in connection with discrimination;

(E) Separate housing on the basis of sex, but only if housing for both sexes is proportionate in quantity, quality, and cost; and

(F) Separate toilet, locker room and shower facilities on the basis of sex, but only if the facilities are comparable in number, quality, and cost.

(ii) *Section 504*.—(A) *Exclusion of nonhandicapped persons from the benefits of a program limited by Federal*

statute or Executive Order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive Order to a different class of handicapped persons;

(B) In preemployment inquiries, solicitation of information as to an applicant's ability to perform job-related functions;

(C) When taking remedial action to correct the effects of past discrimination, invitation to applicants for employment to indicate whether, and to what extent, they are handicapped. A recipient must state clearly that the information requested is intended for use solely in connection with its remedial action obligations or voluntary affirmative action efforts and will be kept confidential;

(iii) *Age Discrimination Act*.—(A) program or activity established under authority of law (Federal, State or local) which provides benefits to persons based on age or establishes criteria for participation in age-related terms;

(B) An action otherwise prohibited if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity; or

(C) An action otherwise prohibited which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages and only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

3. Covered Employment

(a) Discrimination in employment is generally prohibited by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The Age Discrimination Act applies to employment only when the primary purpose of the program is to provide employment (to program beneficiaries) but does not apply to other employment practices of the employer, employment agency, labor organization or labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Job Training Partnership Act of 1982, (29 U.S.C. 1501; 96 Stat. 1322).

(b) Employment practices covered include, but are not limited to: recruitment, recruitment advertising, hiring, layoff or termination, upgrading

or promotion, transfer or demotion, training, participation in upward mobility programs, rates of pay or other forms of compensation, use of facilities, job assignments, job classifications, organizational structures, position descriptions, lines of progression, leaves of absence, fringe benefits, or employer sponsored social or recreational activities.

(c) With respect to covered employment, Title VI, Title IX, Section 504, and the Age Discrimination Act vary in their application and in the requirements each imposes to ensure compliance by recipients of Federal financial assistance. The application and extent of coverage of Title VI, Title IX, Section 504, and the Age Discrimination Act are as follows:

(i) *Title VI and the Age Discrimination Act.*—(A) Title VI and the Age Discrimination Act apply to the recipient's employment practices when the primary objective of the Federal financial assistance granted to the recipient is to provide employment.

(B) When employment is not a primary objective, Title VI and the Age Discrimination Act apply to employment practices which tend to discriminate on the basis of race, color, national origin, or age against beneficiaries of the program or activity receiving Federal financial assistance.

(ii) *Title IX.*—Title IX coverage extends to a recipient's employment practices whether or not the primary purpose of the Federal financial assistance granted to the recipient is to provide employment. The Supreme Court held, in *North Haven Board of Education, et al., v. Terrel H. Bell, Secretary, Department of Education*, 456 U.S. 512, 102 S. Ct. 1912, 50 U.S.L.W. 4501, May 17, 1982, that, while Title IX (Sec. 901(a)) does not expressly include employees within its scope or expressly exclude them, its broad directive that "no person" may be discriminated against on the basis of gender, on its face, includes employees as well as students.

(iii) *Section 504.*—(A) Section 504 applies to a recipient's employment practices whether or not the primary purpose of the Federal financial assistance granted to the recipient is to provide employment.

(B) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee, unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. Reasonable accommodation may include: (1) making facilities used by employees readily

accessible to an useable by handicapped persons; and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(C) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination in employment. The relationships referred to include relationships with employment and referral agencies, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

III. Recipient Compliance Responsibilities

1. Data Collection and Reporting

(a) The VA may request data which reflect the recipient's compliance with Title VI, Title IX, Section 504, and the Age Discrimination Act. Proprietary educational institutions are expected to compile and maintain a confidential record on the race, color, national origin, sex, and, in certain circumstances, handicap and age of their employees and students.

(b) Data pertaining to handicap status will not be obtained from applicants for employment or services unless the educational institution is taking remedial action to correct the effects of past discrimination or is taking voluntary affirmative action to overcome the effects of conditions that resulted in limited participation by the handicapped in the Federally assisted program. Data pertaining to age will not be obtained from applicants for employment or services unless the educational institution operates a program which permits the use of age as a factor necessary to the normal operation of a program or activity or the achievement of any statutory objective.

(c) Proprietary educational institutions will provide the VA with all information concerning complaints of discrimination on the grounds of race, color, national origin, sex, handicap, and age that have been filed against them and any subrecipients under Title VI, Title IX, Section 504, and the Age Discrimination Act.

(d) Proprietary educational institutions will advise applicants, employees, and beneficiaries of the requirement for the recipient to collect and report data required in (a) and (b) above and, when appropriate, will ask them to provide the necessary information. If applicants, employees, or

beneficiaries refuse to furnish the information, the recipient will report information to the limits afforded by observation.

(e) The racial, national origin, handicap, sex, and age data gathered by proprietary educational institutions should reflect the following categories:

(i) Black, not of Hispanic origin (A person having origins in any of the black racial groups of Africa.);

(ii) Hispanic (A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.);

(iii) Asian or Pacific Islander (A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. These areas include, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.);

(iv) American Indian or Alaskan Native (A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.);

(v) White, not of Hispanic origin (A person having origins in any of the original peoples of Europe, North Africa or the Middle East.);

(vi) Type of handicap (if appropriate);

(vii) Sex; and

(viii) Age (if appropriate).

(f) The records of racial, national origin, sex, handicap, and age data shall be kept separate from other personnel records and recipients should provide for confidential handling of these documents by an official responsible for equal opportunity matters. The information will not be made a basis for employment, for the provision of services, or for any other purpose that could result in a discriminatory practice, except when a program or activity established under authority of any law provides benefits on the basis of handicap or age or in age-related terms.

2. Dissemination of Information

(a) Each proprietary educational institution shall inform employees, applicants, and beneficiaries of benefits or services that the benefits and services of the program are provided without discrimination on the basis of race, color, national origin, sex, handicap, or age. In order to provide for the dissemination of this information, the VA will issue a poster to an appropriate official of the institution. The poster will also inform the public of procedures to follow if they believe they have knowledge of discrimination in the provision of services or benefits by the

recipient. Each recipient will display the poster in a conspicuous place at the location where benefits or services are provided to applicants, enrollees, and employees.

(b) Each proprietary educational institution shall make these guidelines available to employees, applicants, and beneficiaries of benefits or services. Additional copies may be obtained from the local VA field station.

3. Self-Evaluation

(a) Recipients of Federal financial assistance from the VA must conduct a self-evaluation of their compliance with section 504 of the Rehabilitation Act of 1973, in accordance with 38 CFR 18.406(e).

(b) In conducting a self-evaluation, proprietary educational institutions shall:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, their current policies and practices and the effects of the policies and practices that do not meet the requirements of VA regulations (38 CFR Part 18, Subpart D); and

(ii) After consultation with interested persons, including handicapped persons or organizations representing handicapped persons, modify the policies and practices that do not meet the requirements of VA regulations, and take appropriate remedial steps to eliminate the effects of discrimination that resulted from adherence to those policies and practices.

(c) Recipients employing 15 or more persons shall, for at least three years following completion of the evaluation, maintain on file, make available for public inspection, and provide the VA upon request the following information:

(i) A list of interested persons consulted;

(ii) A description of the area examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

(d) VA compliance personnel will make available to recipients a form which may be used to complete the self-evaluation. Where a recipient employing 15 or more persons uses the VA form to complete its self-evaluation, the recipient will retain the form for a period of three years following completion of the evaluation and submit a copy to VA compliance personnel, upon request, at anytime during that period.

(e) As part of the compliance review or complaint investigation, a recipient,

employing the equivalent of 15 or more employees, may be required to complete a written self-evaluation of any age distinction established in its programs and activities receiving Federal financial assistance from the VA. When a recipient's self-evaluation indicates a violation of the Age Discrimination Act or VA regulations which implement the Act, the recipient shall take corrective action.

IV. Compliance Procedures

1. Recipient Compliance Requirements

(a) Proprietary educational institutions, as a condition of approval for Federal financial assistance, are required to sign a written statement of assurance that their educational programs will be conducted and their facilities operated in compliance with 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. The statement of assurance is a one-time submission, after which no additional statement is required.

(b) An initial preaward compliance review, consisting of verification of a signed Statement of Assurance of Compliance with Equal Opportunity Laws (VA Form 27-8206), a review of a Compliance Report of Proprietary Institutions (VA Form 27-4274), and a review of any outstanding complaints of discrimination, will be made by appropriate VA compliance personnel. A proprietary educational institution which does not meet the preaward civil rights compliance requirements may be approved for Federal financial assistance if the recipient agrees, in writing, to take the necessary steps within a stated period of time to comply with the requirements.

2. Agency Compliance Requirements

(a) Designated VA compliance personnel will conduct periodic onsite postaward compliance reviews of proprietary educational institutions to assure their compliance with Title VI, Title IX, Section 504, and the Age Discrimination Act. Onsite reviews will consist of an evaluation of the recipient's facilities, a review of pertinent records, and interviews with administrative staff and instructors as well as participants in the facility's program. Each recipient shall permit access by VA compliance personnel during normal business hours to the sources of information which are necessary to ascertain the recipient's compliance with equal opportunity laws.

(b) The VA will provide written notification regarding the results of

onsite equal opportunity compliance reviews to each recipient. If evidence of discrimination is found during the onsite review, the recipient will be asked to comply voluntarily. If voluntary compliance with equal opportunity laws is not obtained, a notice of the recipient's failure to comply will be referred to the VA General Counsel for further action under 38 CFR 18.8 through 18.11.

3. Complaint Processing Procedures

(a) Employees and applicants for employment (except under the Age Discrimination Act), beneficiaries, or any other persons who believe a proprietary educational institution has discriminated or is discriminating against any individual or class of individuals in its employment practices or in the delivery of services or benefits on the basis of race, color, national origin, sex, handicap, or age, may file a complaint of discrimination under Title VI (race, color, national origin), Title IX (sex), Section 504 (handicap), or the Age Discrimination Act (age). A complaint should be filed within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, the agency may extend this time limit.

(b) The Age Discriminating Act covers the filing of complaints which allege discrimination on the basis of age in the delivery of services or benefits. The Act does not apply to employment practices of any employer, except when a primary purpose of the program is to provide employment. Other types of employment and employment practices are covered by the Age Discrimination in Employment Act (ADEA), December 25, 1967 (Pub. L. 90-202), which is administered by the Equal Employment Opportunity Commission. The ADEA protects persons between the ages of 40 and 70 from discriminations in employment based on age in non-Federal employment.

(c) Complaints alleging discrimination on the ground of age in the delivery of services or in employment, when the primary purpose of the program is to provide employment, will be screened by the Veterans Assistance Service, Department of Veterans Benefits, and then forwarded to the Federal Mediation and Conciliation Service for mediation. Both the complainant and the facility will participate in the mediation process though they need not meet with the mediator at the same time.

(d) When there has been no settlement reached by the mediator or when there is a violation of a mediation

agreement, the VA will attempt to reach an informal settlement between the complainant and the recipient. The VA will institute formal investigation of the complaint if no formal settlement is reached.

(e) Complaints alleging discrimination against proprietary educational institutions must be filed no later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible VA official or a designee. Upon receipt of a complaint under Title VI, Title IX, and Section 504, the responsible agency official or designee shall:

(i) Promptly determine whether the VA has jurisdiction over matters pertaining to the alleged discriminatory practices;

(ii) If the VA does not have jurisdiction, refer the complaint to the Federal agency having jurisdiction and advise the complainant of the referral within 15 days after receipt of the complaint by the official responsible for the referral;

(iii) If the VA had jurisdiction, notify the complainant and the facility alleged to be discriminating of receipt of the complaint within 15 days; and

(iv) Initiate an investigation.

(f) Complaints alleging employment discrimination on the ground of race, color, national origin, or sex only, under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, and which are also subject to processing under Title VII of the Civil Rights Act of 1964 or the Equal Pay Act of 1973, shall be forwarded, within 10 days of receipt, to the Veterans Assistance Service, Equal Opportunity Staff (273), for transfer to the Equal Employment Opportunity Commission.

4. Procedures for Effecting Compliance

(a) The VA will notify the principal facility official whenever there is a finding of noncompliance with Title VI, Title IX, Section 504 of the Rehabilitation Act, or the Age Discrimination Act. If there is a finding of noncompliance, the VA compliance specialist will ask that the facility officials comply voluntarily, to cease the discriminatory practice, or to provide required data to assure compliance. The compliance specialist, to the fullest extent practical in obtaining compliance, shall provide assistance and guidance to the recipient.

(b) If there is a failure to comply with equal opportunity laws and compliance cannot be obtained voluntarily, enforcement of the laws may be effected by the suspension, termination or refusal to grant or to continue Federal

financial assistance, or by any other means authorized by law.

(c) Once a finding of noncompliance has been made, no order to suspend, terminate, refuse to grant, or to continue Federal financial assistance shall become effective until:

(i) The responsible agency official has advised the applicant or recipient of the failure to comply and had determined that compliance cannot be obtained by voluntary means;

(ii) The applicant or recipient has been given an opportunity for a hearing;

(iii) The action has been approved by the Administrator of Veterans Affairs pursuant to VA regulation 38 CFR 18.9;

(iv) The Administrator has filed with the committees of the House of Representatives and the Senate having legislative jurisdiction over the program involved a full written report of the circumstances and the grounds for such action; and

(v) Thirty days have expired following submission of the report by the Administrator to the appropriate committees of the House and Senate.

[FR Doc. 86-2158 Filed 1-30-86; 8:45 am]

BILLING CODE 8320-01-M

Guidelines for Compliance With Equal Opportunity Laws by State Employment Service and Recognized Service Organizations

AGENCY: Veterans Administration.

ACTION: Notice of Guidelines and Request for Comments.

SUMMARY: These guidelines are published to promote equal opportunity compliance as it applies to State employment services and recognized service organizations whose representatives are afforded the use of Federally-owned property, administered by the Veterans Administration without charge, under sections 244(1) and 3402(a)(2) of title 38, United States Code. These guidelines derive from Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), the Age of Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), Executive Order 12250 (45 FR 72995, November 4, 1980), coordinating regulations of the DOJ (Department of Justice) (28 CFR Parts 41 and 42, Subpart F), the HHS (Department of Health and Human Services) (45 CFR Part 90), and implementing regulations of the Veterans Administration (38 CFR Part 18).

DATE: Comments must be received on or before March 3, 1986.

ADDRESS: Comments on these proposed guidelines should be forwarded to: Veterans Assistance Service (273), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Melvin T. Jackson, (202) 389-2095.

SUPPLEMENTARY INFORMATION: By authority granted under governmentwide guidelines, issued by the DOJ in 28 CFR Parts 41 and 42, Subpart F and the HHS in 45 CFR Part 90, the Attorney General and the Secretary of the HHS, respectively, directed Federal departments and agencies which extend Federal financial assistance to issue regulations and develop guidelines for the implementation of equal opportunity laws concerning nondiscrimination in Federally assisted programs. These guidelines are developed in accordance with the governmentwide guidelines cited above and provide detailed information on the compliance requirements of the following laws as they apply to State employment services and recognized service organizations: Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, as amended, and the Age Discrimination Act of 1975 as amended. These guidelines are issued for use by Federal employees; applicants and recipients of Federal financial assistance; officials and employees of State employment services and recognized service organizations; beneficiaries of Federal financial assistance; and other persons affected by or interested in the programs administered by the Veterans Administration.

Dated: January 27, 1986.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

1. Purpose and Application

(a) Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 provide that no person in the United States shall, on the ground of race, color, national origin, handicap or age be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Each Federal department and agency is responsible for ensuring compliance with laws prohibiting discrimination in programs or activities which it assists. The Secretary of the HHS (Department of Health and Human Services), as Federal coordinator for the

Age Discrimination Act under 45 CFR Part 90 and the Attorney General, as Federal coordinator for Title VI and section 1504 under Executive Order 12250, issued governmentwide guidelines which directed each Federal agency to issue regulations and program guidelines.

(b) The VA (Veterans Administration) issued implementing regulations for Title VI, section 504, and the Age Discrimination Act in Part 18, Title 38 of the Code of Federal Regulations. In a Memorandum of Understanding between the Department of Justice and the VA, the VA agreed to notify recognized service organizations of the nondiscriminatory requirements attached to their use of Federal facilities, to supply equal opportunity posters and to require their display by the service organizations. Appendix A to Subparts A, D, and E of 38 CFR Part 18 lists space and office facilities for representatives of State employment services as covered by Title VI, section 504, and the Age Discrimination Act. The purpose of these guidelines is to ensure that representatives of State employment services and recognized service organizations, Federal employees, and other persons affected by or interested in these services are aware of their rights and responsibilities under Title VI, section 504, and the Age Discrimination Act.

(c) The VA is responsible for ensuring compliance under Title VI, Section 504, and the Age Discrimination Act in all programs and activities for which it provides Federal financial assistance. Representatives of State employment services are afforded the use of Federally owned property in their use of VA office space and equipment, without charge, under the authority of section 244(l) of title 38, United States Code and representatives of recognized service organizations are afforded the use of such property under section 3402(a)(2) of title 38. These agencies are, accordingly, recipients of Federal financial assistance within the meaning of Title VI, Section 504, and the Age Discrimination Act.

2. Definitions

As used in these guidelines, the term:

(a) "Administrator" means the Administrator of Veterans Affairs, Veterans Administration.

(b) "Age" means how old a person is or the number of years from the date of a person's birth.

(c) "Age Distinction" means any action using age or an age-related term (for example, "18 or over").

(d) "Agency" means the Veterans Administration.

(e) "Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children.")

(f) "Applicant" means one who submits an application, request, or plan required to be approved by an agency official or by a "adult," "older persons," but not "student").

(f) "Applicant" means one who submits an application, request or plan required to be approved by an agency official or by a recipient as a condition of eligibility for Federal financial assistance.

(g) "Facility" includes all or any portion of structures, equipment, or other real or personal property or interest therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) "Federal financial assistance" includes: (i) Grants of Federal funds, (ii) grant or donation of Federal property and interests in property, (iii) detail of Federal personnel, (iv) the sale, lease of, and the permission to use (on other than a casual or transient basis) Federal property or any interest in such property without consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (v) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(i) "Handicapped Person" means any person who: (i) Has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment.

(j) "Normal Operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(k) "Program," except those specifically excluded in 38 CFR 18.2, includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals conducted under a law administered by the Veterans Administration, including, but not limited to, the programs and activities listed in Appendix A to Subparts A, D, and E of 38 CFR Part 18. The services, financial aid, or other benefits to individuals provided under a law administered by the Veterans Administration, including, but not limited to, the programs and activities listed in Appendix A to 38 CFR 18. The services, financial aid or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services,

financial aid or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or any non-Federal resources.

(l) "Qualified Handicapped Person" means: (i) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and, (ii) with respect to other services, a handicapped person who meets the essential requirements for the receipt of such services.

(m) "Recipient" means any State, political subdivision of any State, instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity or any individual in the United States to whom Federal financial assistance is extended directly or through another recipient for any program, including any successor, assignee, or transferee thereof, but the term does not include any ultimate beneficiary under any program.

(n) "Responsible Agency Official," with respect to any program receiving Federal financial assistance, means the Administrator or other official of the Veterans Administration or an official of another department or agency to the extent the Administrator has delegated authority to such official.

(o) "Statutory Objective" means any purpose of a program or activity expressly stated in any Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body.

3. Discrimination Prohibited

(a) General. No person in the United States, including a qualified handicapped person, shall, on the ground of race, color, national origin, handicap, or age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) Specific Discriminatory Actions Prohibited. A recipient under any program providing an aid, benefit, or service may not directly or through contractual, licensing or other arrangements, in the following or in

other instances, on the ground of race, color, national origin, handicap, or age:

(i) Deny a person, including a qualified handicapped person, the opportunity to participate in a program or benefit from the aid, benefit or service which is equal to that afforded others;

(ii) Afford a person, including a qualified handicapped person, an opportunity to participate in a program or benefit from the aid, benefit or service which is not equal to that afforded others;

(iii) Provide a person, including a qualified handicapped person, with an aid, benefit, or service which is different, not as effective or is provided in a different manner from that provided to others under the program;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a person, including a qualified handicapped person, the opportunity to participate as a member of a planning or advisory board;

(vi) In determining the site or location of a facility, make selections with the purpose or effect of excluding individuals, including qualified handicapped individuals, or deny them the benefits of or subject them to discrimination under any program or activity that receives or benefits from Federal financial assistance;

(vii) Utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, national origin, handicap, or age or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, age, or individuals having a particular handicap; or

(viii) Treat an individual differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program or activity.

4. Property

Where Federal assistance is in the form of real or personal property to be used by a State employment service or a recognized service organization, the obligation not to discriminate will apply to the recipient and to any transferee as

long as the property is used for the purpose for which the assistance was extended, for similar benefits, or for as long as the recipient retains possession of the property, whichever is longer.

5. Employment

Representatives of State employment services and recognized service organizations shall not refer or deny referral of veterans or their beneficiaries to employers on the basis of race, color, national origin, handicap, or age and shall not refer veterans or their beneficiaries to employers who are known to discriminate on the basis of race, color, national origin, handicap, or age.

6. Communications

State employment services and recognized service organizations shall take appropriate action to ensure that effective communications are provided to applicants, employees and beneficiaries of a program or activity receiving Federal financial assistance, particularly to those persons with impaired vision and hearing and limited English language skills.

7. Data Collection and Reporting

(a) Periodically, the VA will request data which reflect the recipient's Title VI, section 504, and Age Discrimination Act compliance status.

(b) State employment services and recognized service organizations will obtain information and maintain a confidential record on the race, color, national origin, handicap, or age of each:

(i) Representative employed by the recipient;

(ii) Applicant for employment as a representative;* and

(iii) Person recently hired as a representative;

(iv) Applicant for services;* and

(v) Beneficiary of services.

(*Data pertaining to handicap status will not be obtained from applicants for employment or services unless the organization is taking remedial action to correct the effects of past discrimination or is taking voluntary action to overcome the effects of conditions that resulted in limited participation by the handicapped in its Federally assisted programs. Data pertaining to age will not be obtained from applicants for employment or services unless the recipient operates a program which permits the use of age as a factor necessary to the normal operation or achievement of any statutory objective.)

(c) State employment services and recognized service organizations will provide the agency with information concerning complaints of discrimination

on the basis of race, color, national origin, handicap, or age that have been filed against them under sections 244(l) and 3402(a)(2) of title 38, United States Code.

(d) State employment services and recognized service organizations will advise applicants, employees, and beneficiaries of the need of the recipient to collect and report these data and will ask them to provide the information in writing or verbally. If applicants, employees, or beneficiaries refuse to provide the information, State employment services and recognized service organizations will report information to the limits afforded by observation.

(e) The racial, national origin, handicap and age data gathered by State employment services and recognized service organizations should reflect the following categories:

(i) Black, not a Hispanic origin (A person having origins in any of the black, racial groups of Africa);

(ii) Hispanic (A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture origin, regardless of race);

(iii) Asian or Pacific Islander (A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. These areas include, for example, China, India, Japan, Korea, the Philippine Islands and Samoa);

(iv) American Indian or Alaskan Native (A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition);

(v) White, not of Hispanic origin (A person having origins in any of the original peoples of Europe, North Africa or the Middle East);

(vi) Type of handicap (if appropriate); and

(vii) Age (if appropriate)

(viii) The records of racial, national origin, handicap, and age identification should be kept separate from other personnel records and recipients should provide for confidential handling of these documents by an official responsible for equal opportunity matters. The information will not be made a basis for employment, for the provision of services, or for any other purpose that could result in a discriminatory practice, except when a program or activity established under authority of any law provides benefits on the basis of handicap or age or in age-related terms.

8. Dissemination of Information

(a) Each State employment service and recognized service organization shall inform applicants for services or benefits and beneficiaries that the benefits or services are provided without discrimination on the basis of race, color, national origin, handicap, or age. In order to provide for the dissemination of this information, the VA will issue a poster to the senior representative of each State employment service and recognized service organization at each VA-funded facility. The poster will inform readers that services or benefits are provided on an equal opportunity basis and will provide advice for visitors, applicants and beneficiaries concerning complaint procedures if they believe they have knowledge of discrimination in the provision of services or benefits by the recipient. Each recipient will display the poster in a conspicuous place at the location where benefits or services are provided to veterans and other beneficiaries.

(b) Each State employment service and recognized service organization shall provide a copy of these guidelines to applicants and beneficiaries of benefits or services upon request. Additional copies may be obtained from the local VA regional office or medical and regional office center.

9. Self-Evaluation

(a) Recipients of Federal financial assistance from the VA must conduct a self-evaluation of their compliance with section 504 of the Rehabilitation Act of 1973, in accordance with 38 CFR 18.406(e).

(b) In conducting a self-evaluation, State employment services and recognized service organizations shall:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, their current policies and practices and the effects of the policies and practices that do not meet the requirements of VA regulations (38 CFR Part 18, Subpart D); and

(ii) After consultation with interested persons, including handicapped persons or organizations representing handicapped persons, modify the policies and practices that do not meet the requirements of VA regulations, and take appropriate remedial steps to eliminate the effects of discrimination that resulted from adherence to those policies and procedures.

(c) Recipients employing 15 or more persons shall, for at least three years following completion of the evaluation,

maintain on file, make available for public inspection, and provide the VA upon request the following information:

(i) A list of interested persons consulted;

(ii) A description of the areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

(d) VA compliance personnel will make available to recipients a form which may be used to complete the self-evaluation. Where a recipient employing 15 or more persons uses the VA form to complete its self-evaluation, the recipient will retain the form for a period of three years following completion of the evaluation and submit a copy to VA compliance personnel, upon request, at any time during that period.

(e) *Structural Modifications:* It is recognized that since the Federal financial assistance granted to State employment services and recognized service organizations is the use of Federal space, these recipients should not be held responsible for physical alterations to the space which may be necessary to make their programs and activities accessible to the physically handicapped. The Federal agency extending use of the space to these recipients will be responsible for meeting this requirement.

(f) As part of a compliance review or complaint investigation, a recipient, employing the equivalent of 15 or more employees, may be required to complete a written self-evaluation of any age distinction established in its programs or activities receiving Federal financial assistance from the VA. When a recipient's self-evaluation indicates a violation of the Age Discrimination Act or VA regulations which implement the Act, the recipient shall take corrective action.

10. Compliance Procedures

(a) Every application to the VA for use of space or office facilities by a State employment service or a recognized service organization, or for the extension of such use, shall, as a condition of its approval or the extension of such use, be accompanied by a written statement of assurance that the program will be conducted or the facility operated in compliance with Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The statement of assurance is a one-time submission, after which no additional statement is required.

(b) An initial preaward compliance review and subsequent periodic onsite postaward reviews of the manner in which benefits and services are provided by State employment services and recognized service organizations located at VA field stations will be conducted by designated VA compliance representatives. Each recipient shall permit access by VA representatives during normal business hours to its sources of information and its facilities as may be pertinent to determine compliance with Title VI, section 504, and the Age Discrimination Act.

(c) Each State employment service and recognized service organization shall notify the VA of any complaint or lawsuit filed against it which alleges discrimination on the ground of race, color, national origin, handicap, or age. Such complaints, when filed with the VA, will be investigated by designated VA representatives.

(d) The VA will provide written notification regarding the results of onsite equal opportunity compliance reviews or investigations of complaints to the appropriate State employment service or recognized service organization representative. If there is evidence of discrimination, the recipient will be asked to comply voluntarily. Responsibility for obtaining voluntary compliance is delegated by VA regulations to the Chief Benefits Director (38 CFR 18a.2) and the Chief Medical Director (38 CFR 18a.3).

(e) If the Chief Benefits Director or Chief Medical Director is unable to obtain voluntary compliance, notice of the failure to comply will be referred to the General Counsel for further action under 38 CFR 18.6, 18.8 through 18.11, and 18.461. Administrative action taken to enforce compliance shall include an opportunity for a hearing.

11. Complaint Processing Procedures

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the VA if he/she believes that a State employment service or recognized service organization has violated Title VI, section 504, the Age Discrimination Act, or 38 CFR Part 18.

(b) A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by a responsible agency official or a designee.

(c) Complaints of discrimination filed against State employment services and recognized service organizations on the ground of race, color, national origin (Title VI) or handicap (section 504), will

be investigated by personnel from the VA Central Office, Department of Veterans Benefits (DVB), Veterans Assistance Service (VAS). The investigation will include a review of the pertinent practices and policies of the recipient, the circumstances under which the alleged noncompliance occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with Title VI or section 504.

(d) Complaints of discrimination on the ground of age (Age Discrimination Act) will be screened by the VAS/DVB and then forwarded to the Federal Mediation and Conciliation Service for mediation. Both the complainant and the recipient shall participate in the mediation process, though they need not meet with the mediator at the same time.

(e) When there has been no settlement reached by the mediator or when there is a violation of a mediation agreement, the VA will attempt to reach an informal settlement between the complainant and the recipient. The VA will institute formal investigation of the complaint if no formal settlement is reached.

12. Administrative Hearings

If a recipient fails to comply with the requirements of Title VI, section 504, the Age Discrimination Act, or Federal regulations implementing these laws (38 CFR Part 18), and the noncompliance cannot be corrected by informal means, compliance may be effected by the suspension or termination of or refusal to grant or continue Federal financial assistance. Procedures applicable to implementation of administrative hearings, when noncompliance cannot be corrected, may be found in 38 CFR 18.9-18.11 and 38 CFR Part 18b.

[FR Doc. 86-2159 Filed 1-30-86; 8:45 am]

BILLING CODE 8320-01-M

Schedule of Productivity Improvement (A-76) Reviews for the Department of Memorial Affairs and the Offices of Administration, Procurement and Supply, Data Management and Telecommunications, and Personnel and Labor Relations

AGENCY: Veterans Administration.
ACTION: Notice.

SUMMARY: In accordance with OMB Circular No. A-76 the Veterans Administration, Department of Memorial Affairs and the Offices of Administration, Procurement and Supply, Data Management and Telecommunications, and Personnel and Labor Relations will be conducting

productivity reviews and A-76 cost comparisons at various field stations and Central Office to determine the most efficient organization (MEO) and the feasibility of contracting out specific commercial activities to private contractors.

Two schedules of commercial activities are shown: (1) A schedule of productivity (MEO) reviews which will not be cost compared with private industry; and (2) a schedule of A-76 reviews which will undergo cost comparison with private industry. Activities are listed first by Department or Staff Office, second by commercial activity and third by field facility. Specific invitations for bids or requests for proposals will be announced in the Commerce Business Daily (CBD) to ascertain bidder interest in contracting with the Government to perform the commercial activities scheduled for an A-76 cost comparison. No later than the deadline provided in the CBD advertisement, two or more responsible business firms must indicate their interest in order for the review to proceed to a full cost comparison. If two or more potential bidders express interest, competitive bids will be solicited. These bids will be based upon VA's specifications called a performance work statement (PWS). Also, government contracting procedures will be followed. Concurrently, using the same PWS, the VA will prepare an in-house cost estimate. Formal bids received from interested firms will be cost compared with the VA bid in accordance with OMB's Cost Comparison Handbook, supplement to OMB Circular A-76 and 38 U.S.C. 5010.

VA employees adversely affected or separated as a result of the conversion to contract must be offered the right of first refusal for employment openings under the contract for which they are qualified.

Should it become necessary to substantially change this schedule, appropriate notice will be posted herein.

FOR FURTHER INFORMATION CONTACT: Questions relating to the schedule of reviews for the Department of Memorial Affairs may be directed to Charles W. Eyman at (202) 275-0557; Office of Administration to Gary J. Rivelle at (202) 389-2673; Office of Data Management and Telecommunications to Larry W. Flagg at (202) 389-5308; and Office of Procurement and Supply to Robert P. Craig at (312) 681-8844.

Requests for single copies of the schedule should be made in this writing to: Director, Office of Procurement and Supply (91), Veterans Administration,

810 Vermont Avenue, NW., Washington, DC 20420.

Questions relating to local matters in about "contracting out" should be referred to the Director of the VA facility concerned.

Dated: January 27, 1986.

By direction of the Administration.

Everett Alvarez, Jr.,
Deputy Administrator.

SCHEDULE OF PRODUCTIVITY REVIEWS, DEPARTMENT OF MEMORIAL AFFAIRS, CEMETERY OPERATIONS

[Not to be cost compared with private industry]

Field facility	Start	Completion
Fiscal Year 1986		
Alexandria (LA)	Nov. 20, 1985	Jan. 13, 1986
Barrancas (FL)	Dec. 2, 1985	Feb. 13, 1986
Baton Rouge (LA)	Nov. 18, 1985	Apr. 21, 1986
Bay Pines (FL)	Jan. 6, 1986	Feb. 10, 1986
Beaufort (SC)	Dec. 9, 1985	Feb. 3, 1986
Beverly (NJ)	Dec. 2, 1985	Dec. 8, 1985
Biloxi (MS)	Jan. 20, 1986	Feb. 14, 1986
Camp Butler (IL)	May 1, 1986	May 2, 1986
Camp Nelson (KY)	Feb. 3, 1986	Feb. 26, 1986
Chattanooga (TN)	Dec. 19, 1985	Feb. 10, 1986
Corinth (MS)	Feb. 3, 1986	Feb. 28, 1986
Dayton (OH)	Feb. 3, 1986	Feb. 5, 1986
Fayetteville (AR)	May 13, 1986	June 12, 1986
Florence (SC)	June 2, 1986	July 1, 1986
Fort Gibson (OK)	July 1, 1986	July 31, 1986
Fort Sam Houston (TX)	Mar. 17, 1986	Apr. 18, 1986
Fort Smith (AR)	Aug. 4, 1986	Aug. 29, 1986
Golden Gate (CA)	Sept. 1, 1986	Sept. 5, 1986
Houston (TX)	Apr. 15, 1986	May 15, 1986
Knoxville (TN)	Sept. 1, 1986	Sept. 30, 1986
Little Rock (AR)	July 15, 1986	Aug. 17, 1986
Los Angeles (CA)	Jan. 13, 1986	Jan. 17, 1986
Natchez (MS)	Jan. 17, 1986	Feb. 3, 1986
Port Hudson (LA)	Nov. 21, 1985	Jan. 21, 1986
Raleigh (NC)	Apr. 1, 1986	Apr. 30, 1986
Rock Island (IL)	July 1, 1986	July 4, 1986
San Francisco (CA)	July 1, 1986	July 4, 1986
Santa Fe (NM)	Nov. 6, 1985	Nov. 8, 1986
St. Augustine (FL)	Mar. 3, 1986	Mar. 28, 1986
Wilmington (NC)	May 1, 1986	May 30, 1986
Wood (WI)	May 1, 1986	Sept. 1, 1986

Fiscal Year 1987

Baltimore Complex (MD)	Oct. 1, 1986	Oct. 5, 1986
Bath/Woodlawn (NY)	July 1, 1987	July 5, 1987
Black Hills (SD)	Jan. 2, 1987	Jan. 5, 1987
Danville (IL)	Oct. 1, 1986	Oct. 5, 1986
Eagle Point (OR)	Jan. 2, 1987	Jan. 5, 1987
Finn's Point (NJ)	Oct. 1, 1986	Oct. 1, 1986
Fort Custer (MI)	Apr. 1, 1987	Apr. 5, 1987
Fort McPherson (NE)	Sept. 8, 1987	Sept. 10, 1987
Fort Scott (KS)	Sept. 1, 1987	Sept. 3, 1987
Fort Snelling (MN)	July 1, 1987	July 5, 1987
Grafton (WV)	July 1, 1987	July 2, 1987
Indianapolis (PA)	Apr. 1, 1987	Apr. 5, 1987
Lebanon (KY)	Oct. 6, 1986	Oct. 31, 1986
Marietta (GA)	Sept. 1, 1987	Sept. 30, 1987
Massachusetts (MA)	July 1, 1987	July 5, 1987
Memphis (TN)	Nov. 17, 1986	Dec. 15, 1986
Mountain Home (TN)	Jan. 19, 1987	Feb. 20, 1987
NMCP (HI)	Mar. 1, 1987	Mar. 5, 1987
New Albany (IN)	Apr. 6, 1987	Apr. 30, 1987
New Bern (NC)	Apr. 4, 1987	Apr. 28, 1987
Puerto Rico (PR)	June 1, 1987	June 26, 1987
Quantico (VA)	Jan. 2, 1987	Jan. 5, 1987
Salisbury (NC)	July 6, 1987	July 31, 1987
Springfield (MO)	Aug. 3, 1987	Aug. 26, 1987
Willamette (OR)	Mar. 1, 1987	Mar. 5, 1987
Zachary Taylor (KY)	Apr. 6, 1987	Apr. 30, 1987

¹ Includes Baltimore, Annapolis and Loudon Park National Cemeteries.

SCHEDULE OF A-76 COST COMPARISONS

Facility	Study start date	Bid opening date
Office of Administrations		
Warehouse Services: Forms/ Publication Depot	September 1985.....	July 1986.
Audiovisual Services: VA Central Office.	March 1986.....	December 1986.
Mail Services: VA Central Office.	October 1986.....	June 1987.
Motor Vehicle Services: VA Central Office.	October 1986.....	June 1987.
Office of Procurement and Supply		
Warehouse Services:		
Hines Supply Depot, IL.	March 1986.....	September 1986.
Somerville Supply Depot, NJ.	March 1986.....	September 1986.
Bell Supply Depot, CA.	March 1986.....	September
Office of Data Management and Telecommunications Data Processing Center		
ADP Operations & Programming; Mail & File Operations; Facilities/ Grounds Maintenance; Warehouse Services; Motor Vehicles:		
Hines, IL.....	July 1985.....	January 1987.
Austin, TX.....	March 1986.....	July 1987.
Philadelphia, PA.....	May 1986.....	July 1987.
Office of Personnel and Labor Relations		
Training: VA Central Office.	April 1985.....	July 1986.

[FR Doc. 86-2160 Filed 1-30-86; 6:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 51, No. 21

Friday, January 31, 1986

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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Consumer Product Safety Commission	1
Federal Reserve System	2
Securities and Exchange Commission	3

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, February 5, 1986.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. NEISS Pilot Project on Causality

The Commission will consider a proposed second phase of a pilot study to test the feasibility and cost of collecting additional data relating to the cause of product-related accidents.

Closed to the Public

2. Management Review: Matrix Management Discussion

The Commission will consider issues related to matrix management as a part of the ongoing management review.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: January 29, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86-2008 Filed 1-29-86; 11:16 am]

BILLING CODE 6355-01-M

2

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, February 5, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-2249 Filed 1-29-86; 12:46 pm]

BILLING CODE 6210-01-M

3

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 3, 1986.

A closed meeting will be held on Tuesday, February 4, 1986, at 2:30 p.m. An open meeting will be held on Friday, February 7, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10),

permit consideration of the scheduled matters at closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 4, 1986, at 2:30 p.m., will be:

- Formal orders of investigation.
- Institution of injunctive actions.
- Institution of administrative proceedings of an enforcement nature.
- Settlement of injunctive actions.
- Settlement of administrative proceeding of an enforcement nature.
- Access to investigative files by Federal, State, or Self-Regulatory authorities.
- Chapter 11 proceeding.

The subject matter of the open meeting scheduled for Friday, February 7, 1986, at 10:00 a.m., will be:

1. Consideration of whether to issue a release that would: approve three depository rule changes that implement an agreement among the depositories not to charge each other fees for interdepository book-entry movements of securities and related funds; approve a Depository Trust Company ("DTC") proposal to charge a fee to National Securities Clearing Corporation ("NSCC") for book-entry movements to or from NSCC's DTC account for certain regional interface transaction settlements; and institute proceedings to determine whether to disapprove a DTC proposal that would authorize DTC to surcharge its participants for interdepository book-entry movements of securities and related funds. For further information, please contact Jerry Greiner at (202) 272-2066.

2. Consideration of whether to issue two releases that would: (1) Adopt amendments to Rule 17Ad-5 requiring transfer agents to respond to securityholder inquiries concerning unpaid dividend and interest claims within certain time frames and adopt amendments to Rule 17Ad-10 extending the time frame within which transfer agents must buy in securities in the event of certain actual overissuances from 30 to 60 calendar days; and (2) propose amendments to Rule 17Ad-1 revising the definition of "item" so that each line on a depository shipment control list is considered a separate item. For further information, please contact Jerry Greiner at

(202) 272-2066 or Ester Saverson, Jr. at (202) 272-2906.

3. Consideration of whether to grant the applications, filed by New York Stock Exchange, Inc. ("NYSE") floor brokers, William Higgins and Michael Robbins, for Commission review of actions by the NYSE which denied Higgins' and Robbins' requests to establish communication links with their off-floor non-member customers. For further information, please contact Donald Nisonoff at (202) 272-2888.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alan Dye at (202) 272-2014.

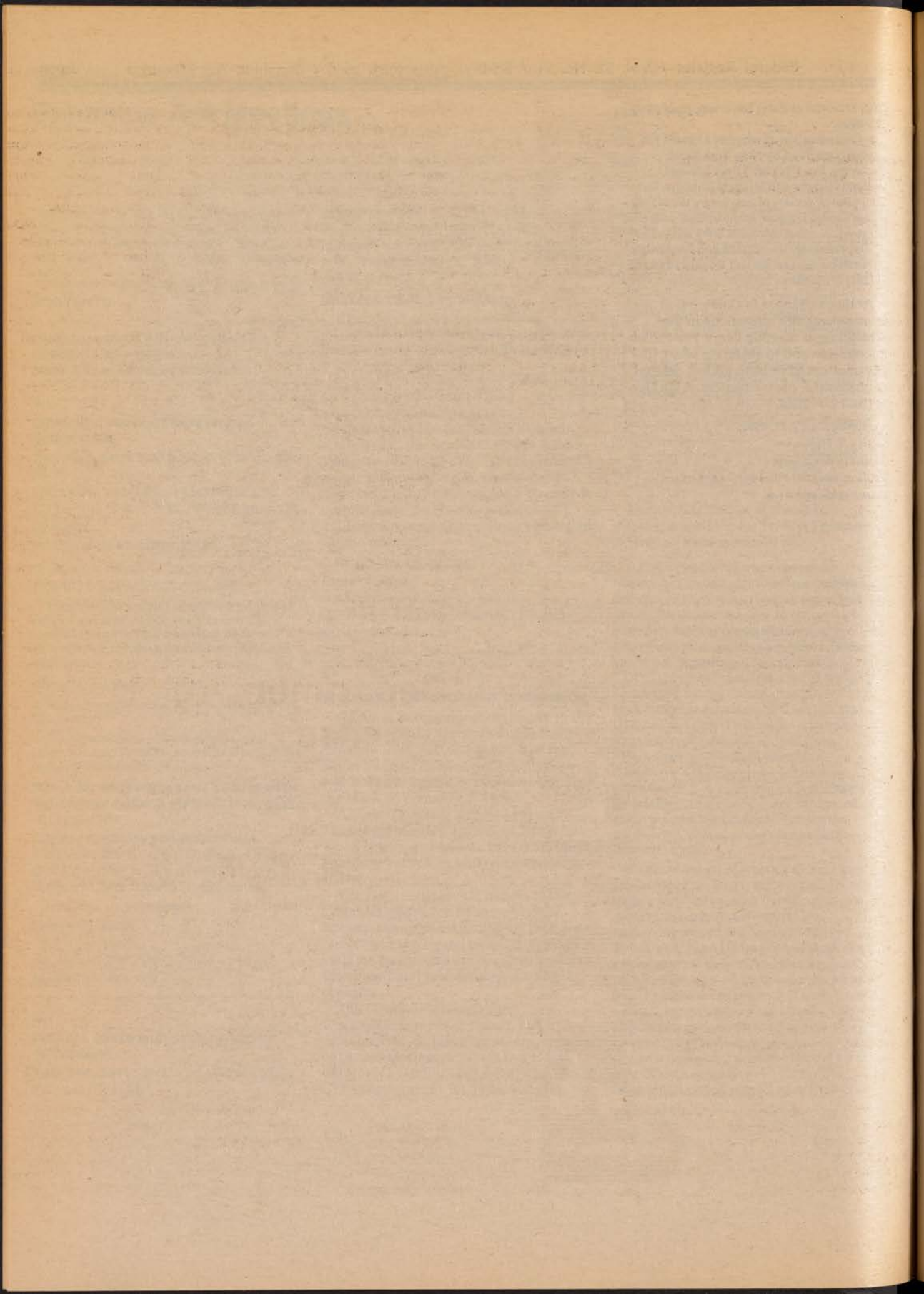
Dated: January 27, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-2305 Filed 1-29-86; 4:01 pm]

BILLING CODE 5010-01-M



32 CFR Part 588

Friday
January 31, 1986

Part II

**Department of
Defense**

Department of the Army

32 CFR Part 588

Equal Employment Opportunity
Discrimination Complaints; Policies and
Procedures; Final Rule

DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 588****[Army Regulation 690-600]****Equal Employment Opportunity
Discrimination Complaints****AGENCY:** Department of the Army, DOD.**ACTION:** Final rule.

SUMMARY: This rule gives the Department of the Army's policies and procedures on the filing, processing, investigating, and settling of equal employment opportunity discrimination complaints. It is designed for Army Commanders, equal employment opportunity officials, investigators, civilian personnel officers, labor counselors, managers, supervisors, employees, and applicants for employment. It implements Federal Law and Equal Employment Opportunity Commission regulation contained at 29 CFR Part 1613. It applies to all discrimination complaints based on race, color, religion, sex, national origin, age, physical or mental handicap, and/or reprisal.

EFFECTIVE DATE: January 31, 1986.**ADDRESS:** Office of the Secretary of the Army, Attn: SFCR, Washington, D.C. 20310-1813.**FOR FURTHER INFORMATION CONTACT:** Cpt. Paul B. Martins, (202) 695-5704.

SUPPLEMENTARY INFORMATION: 32 CFR Part 588 is added to show the Department of the Army's equal employment opportunity discrimination complaint policies and procedures. Army Regulation 690-600 applies to all Department of the Army appropriated or nonappropriated fund activities, their civilian employees, and applicants for employment. It also applies to employees from other Federal agencies receiving Army Support under a servicing agreement who allege discrimination in a matter controlled by the Army. It does not apply to persons employed or applying for positions in the Army and Air Force Exchange System. It also does not apply to non-United States citizens employed by the Army outside of the United States.

The Office of the Secretary of the Army has certified that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612.

Pursuant to 5 U.S.C. 605(b), the regulations, therefore, are exempt from the initial and final regulatory flexibility

analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

List of Subjects in 32 CFR Part 588

Equal employment opportunity.
Employment, Discrimination in
employment, Civil Rights, Labor.

Accordingly, new Part 588 is added to Title 32 CFR to read as follows:

**PART 588—EQUAL EMPLOYMENT
OPPORTUNITY DISCRIMINATION
COMPLAINTS****Subpart A—General Provisions**

- Sec.
- 588.1 Purpose.
 - 588.2 Prescribed forms.
 - 588.3 Explanation of abbreviations and terms.
 - 588.4 Responsibilities.
 - 588.5 Authority.
 - 588.6 Policy statements.
 - 588.7 EEO counselor training.
 - 588.8 Venue.
 - 588.9 Complaints involving the Secretary of the Army or officials of the Office of the Secretary of the Army.
 - 588.10 Complaints involving the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; and its Staff support or field operating agencies.
 - 588.11 Complaints involving the U.S. Army Civilian Personnel Center (CIVPERCEN).

**Subpart B—Individual Complaints of
Discrimination**

- 588.12 Who may file a complaint.
- 588.13 Precomplaint processing.
- 588.14 Filing a formal complaint.
- 588.15 Criteria for acceptance.
- 588.16 Acceptance and rejection of formal complaints.
- 588.17 Arranging for the investigation.
- 588.18 Authority assigned to the USACARA investigator.
- 588.19 Conducting the investigation.
- 588.20 Informal adjustment and offer of hearing.
- 588.21 MACOM review of proposed disposition.
- 588.22 Failure to carry out the terms of the adjustment.
- 588.23 Request for Army decision without a hearing.
- 588.24 Arranging for a hearing.
- 588.25 The hearing.
- 588.26 Final Army decision.
- 588.27 Avoiding delays.
- 588.28 Canceling a complaint.
- 588.29 Consolidation of complaints.
- 588.30 The complaint file.

**Subpart C—Class Complaints of
Discrimination**

- 588.31 General guidance.
- 588.32 Precomplaint processing.

- 588.33 Filing a formal class complaint.
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Authority: 42 U.S.C. 2000e and 29 U.S.C. 621 et. seq.

Subpart A—General Provisions

§ 588.1 Purpose.

This regulation prescribes policies and procedures for filing, processing, investigating, and settling Equal Employment Opportunity (EEO) complaints. The processing of all EEO complaints filed by civilian Army employees or applicants for employment will be governed by this regulation. This regulation will be revised to reflect changes made by the EEOC in its regulations and/or through the issuance of new or revised directives.

§ 588.2 Prescribed forms.

The following forms are contained in Appendix P to this part.

- (a) DA Form 2590-R, Formal Complaint of Discrimination.
- (b) DA Form 5492-R, Precomplaint Counseling Data Sheet.
- (c) DA Form 5493-R, Individual Complaint Data Sheet.
- (d) DA Form 5494-R, Class Complaint Data Sheet.
- (e) DA Form 5495-R, Chronology of Individual EEO Complaint.
- (f) DA Form 5496-R, Chronology of Class EEO Complaint.
- (g) DA Form 5497-R, Disposition of Complaint of Discrimination.

§ 588.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in Appendix O.

§ 588.4 Responsibilities.

- (a) The Army Director of Equal Employment Opportunity, referred to in 29 CFR 1613.204, will be designated by

the Secretary of the Army to set EEO policy. This individual will ensure that—

- (1) Army programs conform to this policy.
- (2) Adequate resources are available to implement the Army's EEO program.
- (3) A system to process EEO complaints exists.
- (b) The Director of Equal Employment Opportunity Compliance and Complaints Review Agency (EEOCCRA) will—

- (1) Develop Army policy and programs to process discrimination complaints.
- (2) Manage and operate the Army discrimination complaint system for individual and class complaints from Army civilian employees and applicants.
- (3) Process and prepare final Army decisions on individual and class complaints of discrimination for approval by the Secretary of the Army or his or her designee.
- (4) Process requests from the EEOC for case files on complaints that are appealed to EEOC.
- (5) Receive and implement appellate decisions rendered by EEOC and process requests for reopening and reconsidering EEOC decisions.
- (6) Provide guidance to subordinate Army activities on the discrimination complaint system.

(c) The Administrator of the U.S. Army Civilian Appellate Review Agency (USACARA) will—

- (1) Conduct investigations of civilian employee complaints of discrimination.
- (2) Prepare reports of findings including recommendations on corrective actions to be taken by the activity.
- (d) The Civilian personnel Officer (CPO) will—
- (1) Ensure that EEO officers, EEO counselors, and investigators are given appropriate access to personnel records and copies of records relevant to the complaint without an inordinate invasion of privacy.
- (2) Perform personnel regulatory reviews and technical support to labor counselors, EEO counselors, and EEO officers.

(e) The Activity Commander responsible for the discrimination complaint program for all serviced and tenant organizations.

- (1) Ensure that sufficient resources are available to EEO program official to manage and operate the discrimination program effectively.
- (2) Ensure that supervisors and managers understand and meet their responsibilities in the discrimination complaint program.

(3) Stress the need for prompt processing and informal resolution of discrimination complaints.

(4) Ensure that management is adequately represented at all steps in the complaint procedure where representation is authorized.

(5) Make timely recommendations and decisions on complaints of discrimination and awards of attorney fees.

(6) Ensure that Army and EEOC decisions are implemented promptly.

(7) Ensure that the following information is regularly publicized and permanently posted on official bulletin boards, with easy access to all employees and to applicants for employment with the Army:

(i) The name and address of the Army Director of Equal Employment Opportunity.

(ii) The names, addresses, and telephone numbers of the activity EEO officials, including the EEO officer and EEO counselors.

(iii) Where applicable, a list of the organization each counselor services.

(iv) A statement that a counselor must be consulted before a formal discrimination complaint is filed under this regulation. (Where applicable, employees should also be advised that discrimination may be grieved under the negotiated grievance procedure or through Merit Systems Protection Board (MSPB) appellate procedures.)

(v) The time limits to start action and to file and process a complaint under this regulation. When applicable, employees should also be advised of time limits for filing allegations of discrimination under the negotiated grievance procedure or MSPB appellate procedures.

(f) The major Army command (MACOM) EEO officer will—

(1) Advise the MACOM commander on the resources required in the command to manage the discrimination complaint program effectively.

(2) Ensure that the EEO complaint processing program is operated effectively and efficiently throughout the MACOM.

(3) Ensure that reports and files are submitted accurately and promptly.

(4) Make on-site evaluations of activity level effectiveness and give staff assistance as needed.

(5) Ensure that all time limits set forth in this regulation are met.

(g) The activity EEO officer will—

(1) Manage the Activity complaint processing program and advise the Activity Commander on EEO matters that require his or her attention.

(2) Advise the Activity Commander to ensure that adequate resources are available in the activity to manage the complaint program effectively.

(3) Recommend the Availability or adequate EEO counselors to provide effective counseling services. As a guide, there should be one counselor for about every 500 serviced employees. This ratio may vary depending on local need.

(4) Supervise EEO counselors to ensure that they perform effectively and are trained in all phases of complaint processing. Refer to assign EEO counselors for precomplaint counseling.

(5) Ensure that counselors and investigators are given administrative and logistical support, including appropriate access to personnel records and copies of records relevant to the complaint, without an unwarranted invasion of privacy.

(6) Make the final decision on behalf of the Secretary of the Army to reject, in whole or in part, individual complaints at the activity; also accepts complaints provisionally subject to final decision by the Secretary of the Army or his or her designee.

(7) Ensure that complaints are processed promptly and that all requirements for precomplaint counseling and for processing complaints of discrimination are met.

(8) Ensure that every reasonable effort is made to reach an informal resolution of the complaint. He or she will advise the Activity Commander on proposed dispositions.

(9) Arrange for USACARA investigations, EEOC hearings and provide for court reporters, making sure that the EEOC complaints examiner is correctly advised to direct his or her report to EEOCCRA and that the correct number of transcripts are ordered.

(10) Ensure that all copies of case files misdirected to the installation by complaints examiners are returned to the complaints examiner with instructions to send the files to EEOCCRA.

(11) Send legible copies of complaint files to EEOCCRA as fast as possible.

(12) Prepare and submit the required reports.

(13) Maintain and safeguard complaint files.

(h) The EEO counselor will—

(1) Advise complainant and management officials of their rights, inquire into allegations of discrimination raised under this regulation, and try to resolve discrimination complaints at the precomplaint stage.

(2) Keep records indicating when the aggrieved person first contacted the counselor. These records will document

the inquiry methods used to reach a solution and the result of the inquiry. Such records will provide specific facts to be included in the counselor's written report to the EEO officer upon completion of counseling.

(i) The servicing legal officer/Staff Judge Advocate (SJA) will—

(1) Provide legal advice on EEO matters to the Activity Commander, the CPO, and EEO officials.

(2) Act as the Army's activity-level legal representative in hearings on individual complaints and in class action proceedings.

(3) Review for legal sufficiency, as requested, proposed informal adjustments or settlement agreements, proposed disposition letters, and final decision letters.

(4) Advise the Activity Commander regarding settling claims of attorney fees and costs. The counselor will forward with analysis and recommendations to the Department of the Army (DA), through the Labor and Civilian Personnel Law Office (DAJA-LC), Office of the Judge Advocate General, for final decision, all claims for attorney fees and/or costs that are not settled at the activity level. (See § 588.54)

(j) Managers and supervisors will act promptly to prevent or correct situations that may give rise to complaints of discrimination. All members of the work force will refrain from actions or comments that might be viewed as discriminatory. Supervisors will allow employees with collateral EEO duties enough duty time to perform their EEO functions. They will also ensure that, at the precomplaint and the formal stages of the complaint, complainants and their representatives are allowed to use a reasonable amount of duty time to work on their complaints. Managers, supervisors, and employees must cooperate fully with counselors, EEO officers, investigators, and examiners.

§ 588.5 Authority.

This regulation implements the directives of the Equal Employment Opportunity Commission which is charged by statute with the enforcement of equal employment opportunity in the Federal Government. Discrimination complaints filed under this regulation are processed under the guidance of EEOC regulations contained in Part 1613 of title 29, Code of Federal Regulations (29 CFR Part 1613). This regulation will be revised to reflect changes in EEOC directives and regulations.

§ 588.6 Policy statements.

(a) Persons who take part in presenting or processing discrimination complaints will be free from restraint,

interference, coercion, harassment, discrimination, and reprisal.

(b) A discrimination complaint will be processed with due regard for the rights of persons against whom allegations have been made.

(c) Complaints will be processed promptly and impartially.

(d) Complaints should be resolved at the earliest possible stage; informal resolution can occur at any stage of processing. Early resolution of complaints achieves better employee relations, cuts administrative costs, and is consistent with the Army's commitment to equal employment opportunity.

(e) This regulation does not affect the rights granted unions that have exclusive recognition in the Army. Further, this regulation is not intended to affect the rights of an employee represented by such a union from exercising the option to file—

(1) A discrimination complaint under this regulation.

(2) A grievance under a negotiated procedure.

(3) An appeal under the appellate provisions of the MSPB regulations.

(4) Sufficient resources, in terms of personnel and funds, will be made available at all levels of command to assure the success of the Army's Equal Opportunity Program.

(5) Suspenses imposed by this regulation are purely administrative and were established by the EEOC and the Army. They are designed to encourage prompt resolution of complaints. Failure to meet such a suspense will not nullify any administrative proceeding. All "days" referred to in this regulation are calendar days.

§ 588.7 EEO counselor training.

All EEO counselors will be given the required training as soon as possible after their appointment, within time limits set by the major command. Training will at least include completion of the basic EEO counseling course given by regional offices of the Office of Personnel Management or any comparable course, and courses in EEO and civilian personnel management, as appropriate. Additional and refresher training will be determined by command policy. All Army training should stress the Army policy to seek informal resolution at the earliest possible stage of complaint.

§ 588.8 Venue.

EEO complaints will generally be processed at the activity where the alleged discrimination occurred. The complaint may be processed at a

different location designated by the MACOM EEO officer if processing is impractical at the activity where the alleged discrimination occurred. (See §§ 588.9 and 588.69)

§ 588.9 Complaints involving the Secretary of the Army or officials of the Office of the Secretary of the Army.

(a) Precomplaint counseling that involves official at the Secretary of the Army level will be coordinated with the EEO officer, Office of the Secretary of the Army, regardless of where in the Army the counseling may arise. The EEO officer at the activity where the aggrieved person is employed or has applied for employment will be responsible for ensuring that local counseling is conducted in accord with §§ 588.13 and 588.32. The coordination will be accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

(b) Formal complaints that involve actions taken by the Secretary of the Army or an official of the Office of the Secretary of the Army will be forwarded for acceptance and processing to the EEO officer, Office of the Secretary of the Army, regardless of where in the Army they arise. The activity EEO officer will issue a letter to the complainant acknowledging receipt of the complaint and informing the complainant of the referral to the Office of the Secretary of the Army. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The activity EEO officer must forward to the EEO officer, Office of the Secretary of the Army, the following documents:

- (1) The complaint.
- (2) A copy of the acknowledgment or receipt.
- (3) A recommendation as to the acceptance or rejection of the complaint, along with an analysis in support of the recommendation.
- (4) A copy of the EEO counselor's report.

§ 588.10 Complaints involving the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; and its Staff support or field operating agencies.

(a) Precomplaint counseling that involves the Chief of Staff, Army; MACOM commanders; official of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the EEO officer for the Military District of Washington (MDW)), will be coordinated with the EEO officer for MDW regardless of where in the Army

the counseling may arise. The EEO officer at the activity where the aggrieved person is employed, or has applied for employment, will be responsible for ensuring that local counseling is conducted in accord with §§ 588.13 and 588.32, and that the required coordination is accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

(b) Formal complaints that involve actions actually taken by the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the MDW EEO officer), will be forwarded for acceptance and processing to the MDW EEO officer, regardless of where in the Army the counseling may arise. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The Activity EEO officer must forward to the EEO officer, MDW, the following documents:

- (1) The complaint.
- (2) A copy of the acknowledgment of receipt.
- (3) A recommendation as to the acceptance or rejection of the complaint, along with an analysis in support of the recommendation.
- (4) A copy of the EEO counselor's report.

§ 588.11 Complaints involving the U.S. Army Civilian Personnel Center (CIVPERCEN).

(a) The Chief, CIVPERCEN will render the proposed disposition if a complaint challenges all of the following:

- (1) The rating, ranking, and referral process at the Army-wide referral level.
- (2) Actions taken by DA Career Program administrators and/or Career Program screening panels.
- (3) The complainant was not included on the referral list.

(b) The Activity Commander responsible for the nonselection will render the proposed disposition if a complaint challenges all of the following:

- (1) The rating, ranking, and referral process at the Army-wide referral level.
- (2) Actions taken by DA Career Program administrators and/or Career Program screening panels.
- (3) The complainant was included on the referral list but not selected.

(c) Pertinent information will be provided by CIVPERCEN or other DA level referral offices, as appropriate, to

include in the Activity Commander's proposed disposition.

Subpart B—Individual Complaints of Discrimination.

§ 588.12 Who may file a complaint?

Any employee, former employee, or applicant for employment covered by this regulation, who believes he or she has been discriminated against because of race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal in an employment matter subject to the control of the Army, may file an individual complaint of discrimination. The complaint may also be filed for the complainant, by a representative designated in writing by the complainant. (The summarized, step-by-step complaint procedure at Appendix A and the flow chart at Appendix C may be reproduced locally and given to the complainant.)

§ 588.13 Precomplaint processing.

(a) Before a formal complaint can be filed, the complainant must first present the matter to an EEO counselor for inquiry within 30 calendar days from the date of the alleged discriminatory event, the effective date of a personnel action, or the date that the aggrieved person became aware or reasonably should have become aware, of the discriminatory event or personnel action. Matters raised after the 30-day time limit will be counseled by the EEO counselor even though a formal complaint may later be rejected for untimeliness.

(b) At the initial interview, the EEO counselor will inform the aggrieved person of the following matters:

(1) The aggrieved person may be accompanied, represented, and advised at all counseling interviews by a representative designated in writing in accord with § 588.71.

(2) The aggrieved person will waive the right to file a formal complaint under this regulation and its procedures if he or she files or has already filed a grievance on the same allegations of discrimination under a negotiated grievance procedure or an appeal with the MSPB. The counselor will give the aggrieved person a handout similar to that contained in Appendix D which informs the individual of the other procedures available for filing allegations of discrimination. If the aggrieved person has already filed an appeal with the MSPB or a written grievance under a negotiated procedure on the same issue, the EEO officer will reject a formal complaint under this regulation.

(3) The counselor will not reveal the aggrieved person's identity to anyone unless the aggrieved person gives written permission or a formal complaint is accepted.

(4) The counselor will define and record the dates and facts of the specific incidents or personnel actions that are the basis of the discrimination complaint. The aggrieved person must cooperate with the counselor in clearly defining issues for investigation.

(5) If the aggrieved person believes that a particular person discriminated against him or her, then that individual may be identified as the alleged discriminating official (ADO).

(6) If an EEO counselor has filed a discrimination complaint individually or as a class agent then, at the discretion of the activity EEO officer, he or she may be precluded from counseling any other person concerning a complaint until that counselor's complaint is resolved by a final Army decision and all appeals have been exhausted. An activity EEO officer may preclude an EEO counselor from counseling based on actual or perceived conflict of interest.

(c) The EEO counselor's duties during inquiry are as follows:

(1) The counselor will inquire into the specific incidents and actions identified by the aggrieved person at the initial interview. The counselor should interview persons who can give direct information on the allegations. If the aggrieved person has named an ADO or an ADO is otherwise identified, the counselor must interview that person unless the counselor has information that clears the ADO from any alleged discrimination to the satisfaction of the aggrieved person. Before any interview with an ADO, the counselor must advise that individual of his or her rights and the nature of the accusations in accord with § 588.61.

(2) The counselor's inquiry should be designed to obtain only that information necessary to reach an informal resolution of the aggrieved person's allegations. Usually such inquiries are to be completed within a matter of days. The inquiry should not be as extensive as an investigation under § 588.19. The counselor should function as a mediator between the aggrieved person and management and should seek a reasonable informal resolution.

(3) The counselor should prepare a written report of all actions taken during the inquiry and of the advice, if any, given to the aggrieved person and the activity.

(d) The EEO counselor's duties at the final interview are as follows:

(1) The counselor should conduct the final interview with the aggrieved

person within 21 days after the matter was first called to the counselor's attention, absent extraordinary circumstances that must be documented by the counselor. At that time, the counselor will tell the aggrieved person of the results of the inquiry and discuss proposed solutions. Upon completion of the final interview, the counselor will—

(i) Inform the aggrieved person, in writing, of the right to file a formal complaint within the next 15 calendar days. This formal notice should be given to the aggrieved person by the use of the sample letter in Appendix E. The counselor must not try to influence the aggrieved person on whether or not to file a formal complaint and must emphasize that the decision to file rests solely with the aggrieved person.

(ii) Stress that a formal complaint must give specific information on the alleged acts of discrimination and must be limited to the issues discussed with the counselor in the precomplaint procedure. A formal complaint that is not specific or does not define the issues will be returned for clarification and canceled if not properly defined.

(iii) Inform the aggrieved person that he or she must inform the EEO officer immediately in writing if legal counsel or any other representative is retained for a formal complaint. (See § 588.71)

(2) If the final interview is not held within 21 calendar days of initial contact with the EEO counselor and if the matter has not previously been resolved to the satisfaction of the aggrieved person, the counselor will inform the aggrieved person in writing, in the 21st day, of the right to file a formal complaint of discrimination. (See Appendix F.) The counselor must not try to influence the aggrieved person on whether or not to file a formal complaint and must emphasize that the decision to file rests solely with the aggrieved person.

(3) Upon completion of counseling, the counselor will prepare a written report of all actions taken during the inquiry, and of the advice, if any, given to the aggrieved person and to management. The counselor will provide this report to the EEO officer along with a copy of the written Notice of Final Interview. The EEO counselor will also complete DA Form 5492-R (Precomplaint Counseling Data Sheet) and appropriate portions of DA Form 5493-R (Individual Complaint Data Sheet). The DA Form 5492-R will be prepared for each reportable contact at the time the Notice of Final Interview is issued. These documents will be submitted to the EEO officer along with his or her report. DA Form 5492-R and DA Form 5493-R will be reproduced locally on 8 1/2- by 11-inch paper.

(e) All Army personnel will fully cooperate with and support the EEO counselor in the performance of his or her duties under this regulation. The EEO counselor will be free from restraint, interference, harassment, coercion, discrimination, or reprisal in connection with the performance of his or her duties.

§ 588.14 Filing a formal complaint.

(a) A formal complaint must be filed within 15 calendar days after the date of receipt of the notice of final interview with the EEO counselor. The formal complaint must be filed in writing by the complainant. If vague or general allegations are contained in the complaint, the complainant will be given an opportunity to provide specific information that will clearly define the issues. If specific information is not provided, the vague or general allegations of the complaint will be canceled for failure to prosecute.

(b) Complaints should be submitted on DA Form 2590-R (Formal Complaint of Discrimination). Complaints submitted in letter form, while not preferred, will be accepted if they meet the other requirements of this regulation. However, in this situation, the EEO officer will complete a DA Form 2590-R and attach it to the letter. DA Form 2590-R will be reproduced locally on 8 1/2- by 11-inch paper. A copy of DA Form 2590-R is located at the back of this regulation.

(c) Persons to whom complaints may be submitted are as follows:

(1) A formal complaint may be submitted to the Army official listed below:

- (i) Activity EEO officer.
- (ii) Activity Commander.
- (iii) Federal Woman's Program Manager.
- (iv) Director of Equal Employment Opportunity.
- (v) Secretary of the Army.

(2) All activity publication will request the complainant to submit a copy of his or her complaint to the activity EEO officer regardless with whom it is filed. Anyone other than the activity EEO officer who receives a complaint will immediately transmit the complaint to the activity EEO officer, indicating the date of receipt of the complaint if it is not postmarked. EEO counselors should encourage aggrieved persons to submit their complaints to the activity EEO officer to assure timely processing.

(3) A formal complaint is deemed filed on the date that it is postmarked or, if there is no postmark, on the date it is received by one of the officials listed in

c(1) above. The activity EEO officer will acknowledge receipt of the formal complaint in writing. (See Appendix G.)

(4) Upon receipt of the formal complaint, the EEO officer will indicate the MACOM against which the complaint is filed, code the matters giving rise to the complaint, ensure the DA Form 2590-R is completed, and immediately submit one copy of the completed DA Form 2590-R to EEOCRA.

§ 588.15 Criteria for acceptance.

(a) A complaint will be accepted by the EEO officer (subject to final decision by the Secretary of the Army or his or her designee) unless the complaint contains one or more of the following:

(1) Refers to a situation over which the Army has no jurisdiction.

(2) Is not based on the complainant's race, color, religion, sex, age, national origin, physical or mental handicap, and/or reprisal. Complaints of discrimination because of age are accepted only if the complaint was at least 40 years of age when the action complained of occurred.

(3) Sets forth matters identical to those in a previous complaint filed by the same complainant and which has been, or is being, processed.

(4) Sets forth matters identical to those in a grievance filed in writing by the same complainant under a negotiated grievance procedure.

(5) Sets forth matters which also form the basis of an appeal filed before the MSPB by the same complainant.

(6) Is untimely.

(i) The matters in a complaint must have been brought to the attention of an EEO counselor within 30 calendar days after the incident, effective date of a personnel action, or the date the aggrieved person became aware of reasonably should have been aware, of the discriminatory event of personnel action.

(ii) Formal complaints must be filed within 15 calendar days after receipt of the Notice of Final Interview.

(iii) The Activity Commander or his or her EEO officer will waive the time limits of this paragraph if the complainant can show either—

(A) That he or she was not notified of the time limits and was not otherwise aware of them.

(B) That he or she was prevented by circumstances beyond his or her control from submitting the matter within the time limits of this section.

(C) The time limits of this paragraph may be waived for reasons deemed sufficient at the discretion of the Activity Commander or his or her designee.

(D) The letter accepting the complaint will state the specific basis for any waiver of time limits.

(b) The Secretary of the Army or his or her designee reserves the right to reject a complaint previously accepted by an EEO officer when making the final Army decision on the Basis of one or more of the grounds specified in a above.

§ 588.16 Acceptance and rejection of formal complaints.

(a) As soon as the EEO officer accepts a formal complaint, he or she will give a copy of the EEO counselor's written report on the precomplaint counseling to the complainant. The original report will be kept in the complaint file.

(b) The EEO officer will review the complaint against the criteria of § 588.15 and determine which allegations should be accepted or rejected. The EEO officer will ensure that the complainant was informally counseled on each matter accepted in the formal complaint.

(1) The EEO officer may ask the complainant to give more specifics on allegations or meet with the EEO counselor on a matter not previously discussed in the precomplaint counseling.

(2) The EEO officer may cancel a complaint for failure of the complainant to prosecute his or her complaint if the complainant does not provide the needed information to the EEO officer in the time specified.

(c) The EEO officer will decide whether to accept or reject a complaint in whole or in part. When appropriate, the EEO officer will coordinate acceptance or rejection of a complaint with the labor counselor. The acceptance of any complaint shall always be conditioned upon the final decision of the Secretary of the Army or his or her designee in accord with § 588.15(b).

(d) The EEO officer will provide the complainant and his or her representative, if any, a written decision within 5 calendar days after the complaint is received. The decision will be either hand-delivered to the complainant or sent by certified mail. The complainant must acknowledge receipt of the decision in writing. The decision must specify which allegations or parts of a complaint were accepted and explain the grounds for any rejection or cancellation. The decision will also advise the complainant of the right to appeal the rejections or cancellations.

(e) If a complaint has been rejected in whole or in part, the EEO officer will process the closure in accord with § 588.69(b). The case file will be

retained by the EEO officer for 2 years from the date of the final Army decision or until all administrative and judicial appeals are exhausted, whichever is longer.

(f) If any part of a complaint is accepted by the EEO officer, a copy of the complaint will be sent directly to the appropriate USACARA Regional office by the EEO officer requesting the assignment of an investigator and citing applicable funds for payment of travel and per diem. As indicated in § 588.17 the transmittal letter will identify the part(s) of the complaint which have been accepted for investigation.

(g) Immediately upon acceptance of a formal complaint, the Activity Commander should designate the activity labor counselor as the Army representative. An ADO may not serve as an Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

§ 588.17 Arranging for the investigation.

(a) Within 3 calendar days after acceptance of a formal complaint, the EEO officer will request the assignment of a USACARA investigator. (See Appendix K.) A copy of the request letter without enclosures will be provided to the complainant, his or her representative, and the labor counselor. The request must contain the following information:

(1) A clear statement of the issues that were accepted.

(2) A statement of the parts of the complaint that were rejected.

(3) The complainant's organization, work location, mailing address, and telephone numbers (both AUTOVON and commercial).

(4) The complainant's designation of a representative, including the representative's work and mailing addresses and telephone numbers (both AUTOVON and commercial).

(5) A fund citation for travel and per diem.

(6) A specific point of contact within the activity EEO office.

(7) Legible copies of the following documents:

(i) The formal complaint.

(ii) The EEO counselor's report.

(iii) Any relevant documents.

(b) The EEO officer or a designee will arrange for the investigator's visit. This may include—

(1) Arranging for quarters and transportation.

(2) Providing a private office, clerical help, and access to a telephone.

(3) Making sure that all named witnesses and ADO's are readily available.

(4) Giving the investigator any other administrative help needed to conduct an efficient investigation.

(c) The EEO officer should provide the labor counselor with at least 10 days advance notice of the dates, time, and location of the USACARA investigation.

(d) To avoid the appearance of impropriety, no activity personnel, to include EEO, CPO, management, or labor personnel will express an opinion regarding perceived merits of a complaint, or lack thereof, with the USACARA investigator. However, activity personnel may disclose facts that would assist the USACARA investigator at any time prior to the completion of the investigation and receipt of the USACARA Report of Investigation (ROI).

§ 588.18 Authority assigned to the USACARA investigator.

By designation of the Secretary of the Army, USACARA investigators are authorized to act as shown below.

(a) Investigate all aspects of a complaint. This includes reviewing and copying all records judged by the investigator to be pertinent to the investigation. Classified documents may be examined only by an investigator who possesses the appropriate security clearance.

(b) Require all Army personnel to cooperate with the investigator in conducting the investigation.

(c) Require Army personnel who have any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence, unless this testimony would result in self-incrimination.

(d) Administer oaths.

(e) Issue an ROI containing conclusions and recommendations.

§ 588.19 Conducting the investigation.

The investigator—

(a) Collects facts and develops information on each accepted allegation in the Complaint and reviews the circumstances under which the discrimination is alleged to have taken place. The investigator does not have the authority to expand the scope of the investigation to include any charges of allegations that were not included in the formal complaint or for which precomplaint counseling was not given. The obligation of the investigator to collect facts and develop information does not lessen the responsibility of the complainant and management to

prepare, present, and explain their positions as the disputes.

(b) Administers oaths and obtains statements from witnesses under oath or affirmation. The investigator determines the witnesses whose testimony is necessary to the investigation and interviews and obtains affidavits from only these witnesses whose testimony is necessary to the investigation and interviews and obtains affidavits from only these witnesses. Affidavits are included in the investigative file only if the investigator deems the testimony relevant and necessary. The investigator documents for the record the reason any witness identified by the complainant or by management was not interviewed and the reason evidence that was offered was not accepted.

(c) Gives the ADO, if named or identified, full opportunity to review documents and respond to all allegations made against him or her in accord with § 588.62.

(d) Collects and analyzes information on how members of the complainant's group are treated compared to other employees in the organization where the discrimination is alleged to have occurred. This information may include, for instance, statistical data on promotions, disciplinary actions, awards, or other personnel actions.

(e) Investigates work policies and practices relevant to the accepted allegations of the complaint.

(f) Collects information needed to review the merit of mixed case issues that are included under § 588.46.

(g) Is independent of control by any of the parties to the complaint, but is entitled to the full cooperation of all parties and their representatives.

(h) Sends the ROI to the EEO officer, with a copy of the report without attachments to the EEO officer at the next higher level of command within 45 days after assignment of the case. This 45-day time limit is purely administrative in nature. Failure to process a USACARA investigation within this time frame will not prevent the administrative processing of any complaint of discrimination. Included in the file are the investigator's findings and recommendations and other relevant documents as described in § 588.76.

§ 588.20 Informal adjustment and offer of hearing.

(a) The EEO officer will thoroughly review the ROI to ensure that the ADO was given an opportunity to respond to each allegation as described in § 588.62(c) and that the investigation is comprehensive and adequately addresses all issues accepted in the

complaint. The EEO officer may return an ROI to USACARA for further investigation if the ROI is inadequate. The EEO officer will specify the additional issues to be investigated or evidence to be gathered.

(b) Within 5 calendar days after receipt of the USACARA ROI, the EEO officer will send a complete copy of the USACARA ROI to the complainant and his or her representative, if any, with an offer to meet and discuss an informal adjustment of the complaint. The ROI may be sent by certified mail, return receipt requested, or be personally delivered by an Army official. If the ROI is personally delivered, the complainant and the representative will acknowledge receipt in writing. If the complainant or the representative declines to sign a receipt, the server will sign and indicate to whom and when the ROI was served. The receipt will be filed in the complaint file.

(c) If the complainant agrees, an adjustment meeting should be held within 10 calendar days after receipt of the USACARA ROI by the EEO officer. The Activity Commander, or a designee, should consult with the EEO officer, the labor counselor, and the CPO, on the proposed terms of the adjustment. The adjustment meeting should be accomplished by the least costly method while protecting the rights of the complainant. Adjustment meetings may be conducted by conference call or correspondence if the concerned parties are not readily available. The commander or a designee may also consult the ADO on the subject. Offers of settlement and the details of negotiations about settlement offers will not be included in the complaint file.

(d) If a tentative settlement is reached, its proposed terms are coordinated by the EEO officer with the labor counselor and the CPO as appropriate before it is finalized. It is then signed by the complainant and the Activity Commander, or a designee, and made part of the complaint file. A copy of the terms of the settlement will be given to the complainant, his or her representative, and the ADO. (See Appendix H.)

(e) An informal adjustment may include an award of attorney fees and/or costs if there was a finding or admission of discrimination. (See § 588.55 for special procedures on no-fault settlements without a finding or admission of discrimination.) If the parties agree on an adjustment of the complaint, but cannot agree on the issue of attorney fees and/or costs, that issue will be handled separately. The issue of attorney fees and costs will then be the

subject of the final decision by the Secretary of the Army or his or her designee. (See § 588.51 for guidance.)

(f) If the complainant does not agree to meet, or if an adjustment is not reached, the Activity Commander will give the complainant a Notice of Proposed Disposition of Discrimination Complaint with a copy furnished to the ADO. (See Appendix I.) The notice, which must first be reviewed by the labor counselor for legal sufficiency, will—

(1) Indicate the date a meeting was held to attempt adjustment or that the complainant refused to meet.

(2) Notify the complainant of his or her right to a final Army decision with or without a hearing, and of the 15-calendar-day time limit to make the request. Decisions regarding attorney fees and/or costs will be made in accord with §§ 588.54 and 588.55.

(3) Contain an analysis of the case and the rationale for the proposed disposition.

(4) Be issued within 20 calendar days of receipt by the EEO officer of the USACARA ROI.

(g) If the complainant does not respond within 15 calendar days from receipt of the Notice of Proposed Disposition, the Activity Commander will adopt the proposed disposition as the final Army decision and notify the complainant accordingly, advising him or her of the right to appeal to the Office of Review and Appeals, Equal Employment Opportunity Commission, and the right to file a civil action (app B). Although complaint adjustments are specifically provided for in this paragraph, the activity should continue to be alert to the possibility of adjustments at any stage of the complaint process.

§ 588.21 MACOM review of proposed dispositions.

When a USACARA investigator recommends a finding of discrimination and the Activity Commander rejects that recommendation in favor of a proposed disposition finding no discrimination, that proposed disposition (along with the complaint file) will be forwarded to the Activity Commander's MACOM commander for review. The MACOM review will be performed within 30 calendar days after the issuance of the proposed disposition. The MACOM commander's review of the proposed disposition will be made a part of the complaint file. The MACOM review will be performed concurrent with the processing of a complaint for a hearing in accord with § 588.24 or as part of the processing of a complaint for an Army

decision without a hearing in accord with § 588.16.

§ 588.22 Failure to carry out the terms of the adjustment.

If the activity does not carry out, or if it cancels, any action specified by the adjustment, for any reason not due to acts or conduct of the complainant, the complaint will be reinstated for further processing at the written request of the complainant. The complaint should be reinstated at the point where processing stopped. If the Activity Commander determines that the terms of the adjustment have been implemented, a decision declining to reinstate the complaint will be issued. Documents evidencing implementation will be attached to the decision with an advisement of appeal rights to the EEOC.

§ 588.23 Request for Army decision without a hearing.

When the complainant, dissatisfied with the Activity Commander's proposed disposition asks for an Army decision without a hearing, the EEO officer sends the original and one copy of the complaint file the EEOCCRA, ATTN: SFCR, WASH, DC 20310-1813. (For a list of the contents of the complaint file, see § 588.76. The EEO officer ensures that all copies of the file are complete, legible, and identical.

§ 588.24 Arranging a hearing.

(a) When the complainant asks for a hearing, the EEO officer requests assignment of a complaints examiner from the EEOC District Office that has geographic jurisdiction over the activity where the hearings is to be held. (See Appendix I.) The hearing will usually be held at the activity where the complaint is permanently assigned or has applied for employment. If another location is preferred, the written request to EEOC will specify the alternative location. However, EEOC will decide where a hearing is to be held. For travel funding and other costs, see § 588.79.

(b) The written request to EEOC will include the original complaint file (See § 588.76). In addition, one copy of the tabbed complaint file will be sent to EEOCCRA.

(c) The request to the EEOC will ask that the complaints examiner send the complaint file with the final report and four copies of the hearing transcript to the Director, EEOCCRA, ATTN: SFCR, WASH, DC 20310-1813. When there is more than one complainant, the EEO officer will ask that an additional copy of the report and transcript be sent to EEOCCRA for each additional complainant. If the complaints examiner

sends the report to the activity rather than to EEOCCRA, the EEO officer will immediately return the file to the EEOC by certified mail, return receipt requested, with instructions to transmit it to the Director, EEOCCRA, ATTN: SFCR, WASH, DC 20310-1813.

(d) The request to the EEOC will also provide the name, title, address, and telephone number of the labor counselor as the Army representative at the hearing. A copy of the request will be given to the complainant.

(e) The EEO officer will arrange for the services of a court reporter at the hearing. Activities may not use Army court reporters and should attempt to arrange for a court reporter from Navy or Air Force installations under an interservice support agreement. If no reporter is available, the activity may then contract for a court reporter through their contracting office using the General Services Administration (GSA) Federal Supply Schedule.

§ 588.25 The hearing.

(a) The hearing is conducted by an EEOC complaints examiner subject to EEOC regulations and procedures. This paragraph is provided for information and general guidance and does not control the EEOC complaints examiner's activities.

(b) Before scheduling the hearing, the complaints examiner reviews the complaint file to determine if further investigation is needed and, if so, asks the activity to conduct the additional investigation. If a complaints examiner asks an activity to conduct further investigation, the EEO officer will promptly forward the request to the responsible USACARA Regional Office with an information copy of the transmittal letter furnished the complainant and the complaints examiner. The examiner may also ask the activity to arrange for the witnesses needed to testify at the hearing. (See § 588.70) If a prehearing adjustment of the complaint is reached, the original copy of the agreement will be forwarded immediately to the activity EEO officer who will send necessary closeout document to EEOCCRA.

(c) Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint. The activity will make available all DA personnel called as witnesses for a hearing, unless the presence of a prospective witness is administratively impractical. The complaint examiner conducts the hearing to bring out pertinent facts and accept pertinent document. Rules of evidence are not

applied strictly, but the examiner will exclude irrelevant or unduly repetitious evidence. Information that has a bearing on the complaint, including employment policies or practices relevant to the complaint, will be received in evidence. The complainant, his or her representative, if any, and the labor counselor at the hearing are given the opportunity to cross-examine witnesses who appear and testify. Testimony is given under oath or affirmation. (See § 588.64 for the right of the ADO at the hearing.)

(d) The hearing is recorded and transcribed verbatim. All documents accepted by the examiner at the hearing are made part of the record. If the labor counselor submits a document that is accepted, a copy of the document shall be furnished to the complainant. If the complainant submits a document that is accepted, he or she shall make the document available to the labor counselor for reproduction.

(e) The complaints examiner considers all documents in the complaint file, including the record of the hearing, in making his or her findings, and analysis, and recommendation. The examiner then sends the complaint file to EEOCRA with the required number of copies of the examiner's report and hearing transcript, and notifies the complainant of the date that this is done. The report may include recommended remedial action, if proper, regarding the matter that gave rise to the complaint. Also, the examiner may send EEOCRA a separate letter concerning conditions in the activity that do not have a direct bearing on the complaint.

§ 588.26 Final Army decision.

(a) The Director of EEO or another person designated by the Secretary of the Army makes the final decision, in writing, for the Army. The decision, based on information in the complaint file, is sent to the complainant and his or her representative, if any, by certified mail, return receipt requested. Copies are sent to the MACOM and activity EEO officer. The decision may also be personally delivered to the complainant and the representative by an Army official. If so, the complainant and the representative acknowledge receipt by signing and dating the official copy, and the server signs it and indicates on the copy to whom and when the decision was served. The receipt or the signed copy is filed in the complaint file.

(b) If a hearing was not held, the decision will specify the reasons for the decision and any remedial action to be taken.

(c) If a hearing was conducted, the complainant and the activity will receive a copy of the findings, analysis, and recommendations of the complaints examiner with a copy of the hearing record. The final Army decision may adopt, reject, or modify the decision recommended by the complaints examiner. If the examiner has recommended a finding of discrimination and if the final Army decision letter will give the specific reasons for the rejection or modification. A complaints examiner's recommended finding of discrimination will become final and binding on the Army if 180 calendar days have elapsed since the complaint was filed and the Army has not issued a final decision concerning the recommendation within 30 calendar days after its receipt.

(d) The Army decision will require any remedial action authorized by law that is judged to be necessary or desirable to resolve issues of discrimination and to promote EEO policy.

(e) If discrimination of reprisal is found and there is an attorney of record, the Army decision will advise the complainant and his or her representative that attorney fees and/or costs may be awarded and that any request for this award must be documented and filed within 20 calendar days after receiving the notice. Where the Army determines not to award attorney fees and/or costs to a prevailing complainant represented by an attorney, the decision will state the specific reasons for denying the award. Attorney fees and/or costs are not authorized in age discrimination complaints.

(f) The Army decision will inform the complainant of the right to appeal the decision to the EEOC, of the right to file a civil action, and of the applicable time limits. (For appeal and civil action procedures, see § 588.57.)

(g) Section 588.65 of this regulation addresses the rights of the ADO when a final decision is made.

§ 588.27 Avoiding delays.

(a) Complainants and management officials must not only comply with the time limits specified in this section and Army directives, they should also process a complaint without delay so that it may be resolved within 180 days after the formal complaint is filed. This includes the time spent by the complaint examiner in processing the complaint. In mixed cases covered by § 588.42, the Army decision should be given within 120 days.

(b) If the activity has not issued a decision and has not asked for a

complaints examiner within 75 calendar days from the date a formal complaint was filed, the EEOC may require the Army to take steps to make sure the complaint is processed promptly. Alternatively, the EEOC may assume the complaint's processing. This assumption may include an EEOC investigation that will be paid for by the activity.

§ 588.28 Canceling a complaint.

(a) If a complainant fails to prosecute the complaint prior to the issuance of the USACARA ROI, the EEO officer will notify the complainant of the possibility of cancellation if the complainant does not proceed within a specified time period. If the complaint is canceled, the EEO officer will notify the complainant, in writing, of the cancellation, and of his or her right to appeal to the EEOC or to file a civil action. The notice will also give the time limits for filing an appeal or civil action.

(b) If the complainant fails to prosecute the complaint and it has been investigated by USACARA, the EEO officer should send the file to EEOCRA and request that the Secretary of the Army or his or her designee issue a final decision.

§ 588.29 Consolidation of complaints.

(a) Two or more complaints of discrimination filed by different Army employees, former employees, or applicants for employment, making substantially similar allegations of discrimination, may, with written permission of the complainants, be consolidated for processing by any of the following individuals:

- (1) EEO officer.
- (2) Activity Commander.
- (3) USACARA investigator.
- (4) EEOC complaints examiner.

(b) Two or more complaints of discrimination from the same employee or applicant may, at the discretion of the EEO officer, Activity Commander, USACARA investigator, or EEOC complaints examiner, be joined for processing after notifying the individual that his or her complaints will be processed jointly.

§ 588.30 The complaint file.

The complaint file will be indexed and tabbed in reverse chronological order and will contain legible copies of the documents listed in § 588.76.

Subpart C—Class Complaint of Discrimination

§ 588.31 General guidance.

(a) An employee or applicant who wishes to be an agent for a class and

who believes the class has been discriminated against because of race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal in an employment matter controlled by the Army, may file a class complaint of discrimination. An agent must be a member of the class and must allege that he or she has been personally harmed by a personnel policy or practice that the Army has the authority to change or eliminate.

(b) EEO personnel trained in handling class complaints serve as the counselors for class complaints.

(c) Agents of the class should be thoroughly familiar with the criteria in § 588.33 before they file a class complaint.

(d) The summarized step-by-step procedure in Appendix B, and the flow chart at Appendix J may be reproduced locally and used as a handout.

§ 588.32 Precomplaint processing.

(a) An employee or applicant for employment who wishes to be an agent in a class complaint must consult with the responsible activity's designated EEO counselor for class complaints. Contact must be made within 90 calendar days from one of the following dates:

(1) The date of the matter giving rise to the allegation of individual discrimination.

(2) The effective date of a personnel action.

(3) The date that the aggrieved person became aware, or reasonably should have become aware.

(b) The counselor should advise all aggrieved persons orally and in writing of the following:

(1) The discrimination complaint procedures.

(2) The criteria for the acceptance of class complaints.

(3) The aggrieved person's right to anonymity during the precomplaint process unless disclosure is authorized by the aggrieved person or a formal complaint is filed.

(4) The aggrieved person's right to anonymity during the precomplaint process unless disclosure is authorized by the aggrieved person or a formal complaint is filed.

(c) EEO counselor duties. The EEO counselor will—

(1) Make whatever inquiry is necessary to clarify and define the issues.

(2) Counsel the aggrieved person concerning the issues involved.

(3) Inform the EEO officer and the CPO and other affected officials when corrective action is believed necessary.

(4) Attempt informal resolution through discussions with appropriate officials of the responsible activity. When involved in such discussions, the counselor may seek advice from the servicing legal office.

(5) Keep records of all counseling activities.

(6) Summarize in writing actions and advice given, if any, concerning the issues in the personnel management policy or practice.

(7) Provide sufficient information to the EEO officer so that he or she may notify by electrical transmission the Director of EEOCRA (EEOCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210) within 5 calendar days after the start of precomplaint processing. The information provided must identify precisely all matters raised in the complaint. The right of anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent. If possible, the counselor should reach a mutual agreement with the class agent and his or her representative, if any, as to the specific issues to be considered. This agreement will be in writing and signed by the parties concerned with a copy provided to the complainant and his or her representative. Information provided to the Director, EEOCRA, will identify precisely all matters raised in the complaint, except that anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent.

(8) Conduct the final interview and terminate counseling with the class agent not later than 30 calendar days after the date on which the allegation was first called to the counselor's attention. This interview will take place whether or not the matter has been resolved. At this final interview, the counselor informs the aggrieved person in writing that—

(i) Counseling is over.

(ii) The class agent has the right to file a formal class complaint of discrimination within the next 15 days.

(iii) The class agent must immediately inform the EEO officer if he or she hires legal or other representation.

(iv) A formal complaint must specifically describe the acts of alleged discrimination.

(v) Only matters discussed with the EEO counselor will be considered in a formal complaint.

(9) Avoid influencing the class agent in any way regarding the filing of a class complaint.

(10) Not reveal the identity of the class agent during the precomplaint

processing stage, except when authorized to do so by the class agent.

(11) Prepare and submit a counselor's report to the activity EEO officer within 5 calendar days after the final interview.

§ 588.33 Filing a formal class complaint.

(a) The complaint must be filed in writing by the class agent or a representative and be signed by the class agent.

(b) It must describe specifically the policy of practice that gave rise to the complaint and the resultant personnel action or matter that harmed the class agent.

(c) It must be filed no later than 15 calendar days after the class agent has received the notice of final interview from the EEO counselor. For that purpose, the date a complaint is filed is the date of the postmark, or, if no postmark, the date the complaint is received by one of the officials listed in d below.

(d) Persons to whom class complaints may be submitted.

(1) A formal class complaint may be filed with any of the following:

(i) The responsible activity EEO officer.

(ii) The director of EEO.

(iii) The Secretary of the Army.

(2) EEO activity publications and the EEO counselor will request the class agent to submit a copy of his or her class complaint to the responsible activity EEO officer in every case. Any of the officials listed above will immediately transmit the complaint by the fastest means possible to the responsible activity EEO officer, indicating the date of receipt of the complaint if it is not postmarked.

(e) At all stages, in the preparation and presentation of a complaint, the class agent will have the right to be represented, accompanied, and advised by a representative of his or her own choosing, provided the choice does not involve a conflict of interest or position. The designation of the representative must be made in writing and made part of the class complaint file.

(f) If the agent is employed by the army, he or she will have a reasonable amount of official time to prepare and present his or her complaint. Employees who represent fellow Army employees in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility, whenever it is not inconsistent with the performance of their duties. (See § 588.71(d).) Army employees who represent non-Army employees in a complaint will be granted, at their request, a reasonable

amount of annual leave or leave without pay for this purpose.

(g) Upon receipt of the class complaint, the responsible EEO officer will immediately send a copy of the complaint to EEOCRA (EEOCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210). Receipt of the complaint will be acknowledged, in writing, by EEOCRA. The acknowledgement will contain a docket number assigned to the case which will be used in processing the class complaint.

§ 588.34 Designating the Army representative.

The activity labor counselor should be designated by the Activity Commander as the Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

§ 588.35 Criteria for acceptance.

A class complaint or any part of it may be accepted unless it contains one or more of the following:

- (a) Refers to a situation over which the Army has no jurisdiction.
- (b) Is not based on the class or agent's race, color, religion, sex, age, national origin, physical or mental handicap, and/or reprisal. Complaints of discrimination because of age are accepted only if the class agent and the class were at least 40 years of age when the action occurred.
- (c) Consists of allegations identical to those made in a previous class complaint, filed for the same class, that is pending or has been resolved by the Army or other proper authority.
- (d) Is untimely.

(1) Class complaints must be brought to the attention of an EEO counselor within 90 calendar days after the incident, effective date of a personnel action, or the date that the aggrieved person became aware, of the discriminatory event or personnel action.

(2) Formal class complaints must be filed within 15 calendar days after the date of the final interview with the EEO counselor.

- (e) Lacks specificity and detail.
- (f) Was not filed in writing or was not signed by the class agent.
- (g) Designates a class that is small enough that a consolidated complaint of the members of the class would be practical. (See § 588.29.)
- (h) Alleges no questions of fact common to the class.
- (i) Asserts claims of the class agent that are not typical of the claims of the class.

(j) Specifies a class agent or representative that will not protect the interests of the class fairly and adequately.

§ 588.36 Acceptance, rejection, or cancellation of the formal complaint.

(a) The activity EEO officer will review the class complaint, along with the EEO counselor's report and all other available evidence relevant to the acceptance of the class status of the complaint as specified in § 588.35. The EEO officer should coordinate with the servicing legal office and CPO for their comments to the EEOC complaints examiner on accord with b(4) below.

(b) The EEO officer must forward the following items to the EEOC district officer having geographic jurisdiction over the activity (Appendix M.) within 10 calendar days after receipt of the class complaint.

- (1) The Class complaint.
- (2) The EEO counselor's report.
- (3) Any other information that may help the EEOC complaints examiner determine whether the complaint meets the criteria for acceptance specified in § 588.35.
- (4) Any brief prepared by the labor counselor regarding the acceptability of the class status of the complaint. At the request of the labor counselor, a personnel specialist may be appointed to assist the labor counselor in the preparation of the brief.
- (5) A written instruction that the EEOC complaints examiner send the recommended decision on acceptance, rejection, or cancellation of the class complaint directly to EEOCRA, ATTN: SFCR, WASH DC 20310-1813.

(c) If an allegation is not included in the EEO counselor's report, the EEOC complaints examiner gives the class agent 15 calendar days to explain whether it was discussed and, if not, the reason it was not discussed. If the explanation is not satisfactory, the complaints examiner may recommend that the Army reject the allegation. If the explanation is satisfactory, the complaints examiner may refer the allegation back to the EEO counselor for further counseling of the agent.

(d) If an allegation is not specific and lacks detail, the complaints examiner gives the agent 15 calendar days to correct it. If the agent does not give the required information within that time, the complaints examiner may recommend that the Army reject the complaint. If the information given makes new allegations outside the scope of the complaint, the examiner advises the agent to file an individual or class complaint based on these allegations.

(e) The complaints examiner may recommend that the Army extend the time limits for filing a complaint and for consulting with an EEO counselor. This may be done when the agent or the representative establishes either of the following:

(1) The class agent was not notified of the prescribed time limits and was not otherwise aware of them.

(2) The class agent was prevented by circumstances beyond his or her control from acting within the time limits.

(f) The complaints examiner may recommend that the Army cancel a complaint if the agent fails to prosecute the complaint. This action may be taken when the agent fails to respond, within 15 calendar days, to a written request from the complaints examiner to give information or proceed with the complaint. No complaint may be canceled unless the class agent is first notified, in writing, that failure to proceed within a specified time may result in cancellation of the class complaint.

(g) When requesting information under d or e above, the complaints examiner informs the class agent that the complaint may be rejected if the information is not provided.

(h) The complaints examiner's written recommendation to accept, reject, or cancel a class complaint is sent to the Director, EEOCRA, the class agent, and the agent's representative.

(i) Upon receiving the complaint examiner's recommendation, the EEOCRA reviews the recommendations and the case file. The EEOCRA recommends to the Secretary of the Army or his or her designee whether to accept, reject, or cancel the class complaint.

(j) The Secretary of the Army or his or her designee will notify the class agent, the agent's representative and the complaints examiner of the Army decision, and will send a copy of the notice to the MACOM and activity EEO officer.

(k) The notice of decision to reject or cancel must inform the class agent of all of the following:

- (1) The right to proceed with an individual complaint of discrimination.
- (2) The right to appeal the Army decision to the EEOC Office of Review and Appeals.
- (3) The right to file a civil action. In age discrimination complaints, the agent must appeal a rejection or cancellation to the EEOC before he or she may file a civil action.
- (1) The complaint examiner's recommendation to accept, reject, or cancel the complaint becomes the Army

decision unless it is accepted, modified, or rejected by the Secretary of the Army or his or her designee within 10 calendar days after its receipt.

(m) Acceptance of a class complaint by the Secretary of the Army or his or her designee for purposes of administrative processing under this regulation is not an admission of class status within the meaning of Rule 23 of the Federal Rules of Civil Procedure for purposes of litigation within a Federal District Court.

§ 588.37 Notification and opting out.

(a) Upon notification of acceptance of a class complaint, the activity EEO officer will immediately make reasonable efforts to notify all class members of the existence of a class complaint. The notice will advise class members of their right to remove themselves from the class by notifying the Army within 30 calendar days after the notice is issued. The EEO officer will determine the reasonable means such as delivery, mailing distribution, or posting, for notifying the class members.

(b) The notice will contain the following:

(1) The name of the agency or organizational segment, its location, and the date the class complaint was accepted by the Army.

(2) A description of the issues accepted in the class complaint.

(3) An explanation that class members may remove themselves from the class by notifying the activity EEO officer within 30 calendar days after the issuance of the notice.

(4) An explanation of the binding nature of the final decision on the formal class complaint.

§ 588.38 Avoiding delay.

A class complaint must be processed promptly. All parties will proceed with the complaint without delay so that the time limits imposed by the complaints examiner will be met and the complaint will be processed within 180 calendar days after filing.

§ 588.39 Developing evidence.

(a) The complaints examiner gives the labor counselor and the class agent and his or her representative, if any, 60 calendar days to prepare their cases and develop the evidence based on EEOC regulations. The complaints examiner may extend this time if requested by either party.

(b) During the time allowed to develop the evidence, the complaints examiner may, at his or her discretion, direct that an investigator trained or certified by the EEOC, investigate facts relevant to the class complaint or to any portion of

it. In this event, the labor counselor will immediately notify the EEO officer who will request, in writing, within 3 days of receipt of the examiner's directive, the assignment of an investigator by the appropriate USACARA Regional Office citing applicable funds for travel and per diem.

(c) Both parties will give the examiner all materials that they wish examined and other material the examiner may request.

§ 588.40 Resolution of the complaint.

(a) The complaints examiner gives the class agent, or his or her representative, and the labor counselor a copy of all materials obtained. Also, the examiner provides an opportunity for the class agent to discuss these materials with the labor counselor and to try to resolve the complaint.

(b) Though an opportunity to resolve the complaint is specifically provided at this stage, both parties may agree to resolution at any time after the complaint has been accepted.

(c) If the complaint is resolved, the terms of the resolution will be put in writing and signed by the class agent and the Activity Commander, after coordination with the EEO officer, the labor counselor, and the CPO. A written resolution may include a finding on the issue of discrimination and an award of attorney fees and/or costs. It must also include any corrective action agreed on. The corrective action must be consistent with the law, executive orders, negotiated agreements, and Federal regulations, rules, and instructions. A copy of the signed resolution will be given to the class agent.

(d) Notice of the resolution will be given to all class members in the same way as the notification of the acceptance of the class complaint. This notice will state the terms of the corrective action, if any, to be granted by the Army. A resolution binds all members of the class, except those who have properly removed themselves.

(e) If the Army does not carry out, or rescind, any action specified by the resolution, for reasons not due to acts or conduct of the class agent, the representative, or class members, it will reinstate the complaint for processing at the class agent's written request. The complaint should be reinstated at the point where processing stopped. The agent may appeal to the EEOC Office of Review and Appeals the Army's failure to reinstate the complaint.

§ 588.41 Procedures for the hearing.

(a) At the end of the period allowed to prepare the case, the complaints examiner will set a date for a hearing.

Witnesses and representatives at the hearing are authorized as provided for a Subpart H. Only persons directly connected to the complaint (as determined by the examiner) may attend the hearing.

(b) The complaints examiner will conduct the hearing and give an opportunity to the parties to introduce evidence and to cross-examine witnesses. Testimony will be under oath or affirmation. Rules of evidence are not applied strictly, but the complaints examiner may exclude irrelevant or unduly repetitious evidence. The examiner may also exclude any person from the hearing for conduct that obstructs the hearing.

(c) The hearing is recorded verbatim and the transcript is made a part of the record. The complaints examiner sends to EEOCRA the record of the hearing, the report of findings, and a recommended decision on the complaint. This decision includes corrective action where appropriate. The examiner notifies the class agent of the date the report of findings and recommendations was sent to the EEOCRA.

§ 588.42 Final Army decision.

(a) Within 30 calendar days after the Army receives the examiner's report, the Secretary of the Army or his or her designee must issue a written decision to accept, reject, or modify the findings and recommendations of the examiner.

(b) The decision is sent to the class agent and to his or her representative, with a copy of the transcript of the hearing and of the findings and recommendations of the examiner.

(c) If the Army decision is to reject or modify the findings and recommendations of the complaints examiner, the decision must state, in detail, the specific reasons for the Army action.

(d) If the Army has not issued a decision within 30 calendar days after receiving the examiner's report, the findings and recommendations of the examiner will become the final Army decision. This decision and the record of the hearing must then be sent by EEOCRA to the class agent or his or her representative. A copy of the final Army decision will be sent to the MACOM, the Activity Commander, and to the activity EEO officer.

(e) Within 10 calendar days of the transmittal of the final Army decision to the class agent, the EEO officer will notify all members of the class of the final Army decision by the same means used to notify the class of the existence of the class complaint. (See § 508.31(a))

(f) The final Army decision will direct any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal employment opportunity. When discrimination is found, the notice of decision will—

(1) Advise the class agent and his or her representative, if any, the attorney fees and/or costs may be awarded. The payment of attorney fees and/or costs is not authorized in administrative complaints of age discrimination.

(2) State that a request for such award must be filed within 20 calendar days after receipt.

(3) List the documents that must be sent with the request. (See § 588.54.)

(g) The notice of decision must inform the class agent and his or her representative, if any, of the right to appeal the Army decision to the EEO Office of Review and Appeals, of the right to file a civil action, and of the applicable time limits. (For details on appeals and civil actions, see Subpart F.)

(h) A final Army decision on a class complaint filed under this regulation is binding on the Army and all members of the class, except those who have properly removed themselves from the class.

§ 588.43 Corrective action.

(a) If discrimination is found, the Army must eliminate or change the personnel policy or practice that gave rise to the complaint, so that the policy or practice will no longer cause such discrimination. Also, the Army must provide individual remedial action to the class agent including an award of attorney fees and/or costs, as appropriate, as provided in Subpart E. (The Army must fulfill obligations to consult or negotiate with the unions that have exclusive recognition before doing away with or changing personnel policies or practices.)

(b) If discrimination is found and a class member believes that, but for that discrimination, he or she would have been given employment or an employment benefit, the class member may file a written claim within 30 calendar days with any of the persons listed below. The claim will be filed within 30 calendar days after the notification.

(1) The activity EEO officer.

(2) The director of EEOCRA.

(3) The director of EEO for the Army.

(4) The Secretary of the Army.

(c) The claim must include details showing that the claimant is a class member who was affected by a personnel action or matter resulting

from the discriminatory policy or practice within no more than 135 calendar days before the class complaint was filed.

(d) The Army will try in good faith to resolve the claim within 60 calendar days of receipt. If the Army and the claimant do not agree that the claimant is a member of the class or do not agree on the relief to which the claimant is entitled, the Army will refer the claim, with its recommendations, to the complaints examiner.

(e) The complaints examiner will notify the claimant of the right to a hearing on the claim and will give the parties to the claim an opportunity to submit evidence and representations on the claim. If a hearing is requested, it will be conducted in accord with § 588.25. If a hearing is not requested, the complaints examiner, at his or her discretion, may hold a hearing to obtain the necessary evidence on the claim.

(f) The complaints examiner will issue a report of findings and recommendations on the claim to the Director, EEOCRA. The Army will issue a final decision within 30 calendar days of receipt of the examiner's report. If a decision is not issued within 30 calendar days, the examiner's findings and recommendations will become the final decision.

(g) If the complaints examiner determines that the claimant is not a member of the class or that the claim was not filed in a timely manner, he or she will recommend rejection of the claim and give notice of this action to the Army, the claimant, and the claimant's representative. The notice will inform the claimant of the right to appeal to the EEOC Office of Review and Appeals or to file a civil action in accord with Subpart F.

§ 588.44 The complaint file.

The complaint file will be indexed and tabbed in reverse chronological order and will contain legible copies of the documents listed in § 588.76.

Subpart D—Miscellaneous Complaints

§ 588.45 Reprisal.

A complainant, his or her representative, a witness, or an EEO official may allege restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation or processing of a complaint of discrimination. An allegation of reprisal may be processed under this regulation, a negotiated grievance procedure where applicable, or the appellate provisions of the MSPB (mixed case).

§ 588.45 Mixed cases.

(a) A mixed case complaint is either—

(1) A complaint of employment discrimination or reprisal filed under this regulation, related to or stemming from an action taken by the Army against the complainant, which action may be appealed to the MSPB pursuant to any law, rule, or regulation.

(2) A complaint of sex-based wage discrimination filed with the EEOC, related to or stemming from an action taken by the Army against a complainant, which may be appealed to the MSPB, pursuant to any law, rule, or regulation.

(b) Examples of action appealable to the MSPB are removals, suspensions for more than 14 days, reductions in grade (demotion), reductions in force, denials of within-grade increases, and furloughs for 30 days or less.

(c) *Mixed case appeals.* (1) A mixed case appeal is an appeal filed with the MSPB which alleges that an Army action resulted, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, mental or physical handicap, age, and/or reprisal, or alleges that such Army action resulted in sex-based wage discrimination.

(2) If an employee files an appeal with the MSPB on a mixed case, before filing a formal complaint of discrimination with the Army, the Army activity must reject or cancel any complaint on the same matter, regardless of whether the allegation of discrimination is raised in the appeal to the MSPB. Upon such rejection or cancellation, the Army activity must advise the employee to raise the allegation of discrimination in connection with his or her appeal to the MSPB. If the employee first files a formal complaint with the Army under this regulation, before filing an appeal on the same matter to MSPB, the Army must advise the MSPB and request that it dismiss the appeal without prejudice. The Army, thereafter, shall process the complaint in a manner similar to any other complaint, except that there will be no hearing before the EEOC and the complaint's appeal rights will be to the MSPB, not to the EEOC.

(d) *Election.* A mixed case complaint may be presented initially as a discrimination complaint under this regulation or under a negotiated grievance procedure, if applicable, or as part of an appeal to the MSPB as set forth in FPM Supplement 990-1, MSPB regulations, or Part 1201, title 5, Code of Federal Regulations (5 CFR Part 1201). Employees who wish to appeal must choose the system under which they wish to proceed. Whichever formal action the employee files first is considered an election to proceed in that

forum as to the alleged discrimination. The Army will inform every employee who is the subject of an action which is appealable to the MSPB, of the right to file a mixed case complaint with the Army, or to file a mixed case appeal with MSPB if the employee has raised the issue of discrimination during the processing of the personnel action but prior to the decision to effect that personnel action.

(e) *Timely processing.* A mixed case complaint will be processed in a timely manner, so that the final Army decision is issued within 120 calendar days from the date the complaint was filed.

(f) *Processing complaints on proposals.* (1) Any complaint filed in connection with an Army proposal to take an action that is appealable to the MSPB will be consolidated with any subsequent mixed case complaint filed in connection with the Army's decision to take such an action, either as proposed or as modified during the processing of the proposal.

(2) If, following a complaint on a proposal, the complainant files an appeal with the MSPB on the subsequent Army decision resulting from that proposal, the EEO officer will cancel the complaint on the proposal. The complainant will be advised by the EEO officer that any allegations of discrimination contained in that complaint should be raised with the MSPB in connection with the pending appeal.

(3) When a complaint concerning a proposal to take an action appealable to the MSPB is combined with a mixed case complaint concerning an Army decision appealable to the MSPB, the 120-calendar-day time frame for processing the consolidated complaint begins as of the date the complaint concerning the Army decision is filed.

(4) When a complaint is filed on a proposal, and no appeal or complaint is filed with the MSPB or the Army on the subsequent appealable Army decision resulting from that proposal, the complaint on the proposal will include the final appealable Army decision as an issue. The 120-calendar-day timeframe will begin as of the effective date of the final appealable decision.

(g) *Mixed case advise.* Sample language advising complainants of their rights under mixed case procedures is at appendix D. In age discrimination complaints, a complainant must appeal the Army decision to the EEOC or MSPB before filing a civil action in a Federal District Court.

§ 588.47 Negotiated grievance procedure.

A complainant who is covered by a collective bargaining agreement may file

allegations of discrimination or reprisal under the negotiated grievance procedure instead of filing under this regulation. The complainant has this grievance option if the negotiated grievance procedure does not exclude allegations of discrimination or reprisal. When using the negotiated grievance procedure, a complainant is bound by the negotiated agreement.

§ 588.48 Election of forum.

(a) In a mixed case, the complainant may initially choose either the individual complaint procedure as described in Subpart B of this regulation, appeal the MSPB, or use the negotiated grievance procedure. The rules for choosing the procedure are not the same in all situations. An election will have been made when the following action occurs:

(1) An MSPB appeal will not be accepted if a timely discrimination complaint or a grievance under the negotiated procedure has been filed in writing.

(2) A discrimination complaint will not be accepted if a timely appeal to the MSPB or a timely grievance under the negotiated procedure has been filed in writing.

(3) A grievance under the negotiated procedure will not be accepted if a timely appeal to the MSPB has been filed in writing or if the complainant has initiated timely action under Subpart B of this regulation. If the negotiated grievance procedure is used, the employee may ask the MSPB to review the final decision made under the negotiated procedure. (See § 588.49.)

(b) In a matter involving discrimination covered by the negotiated grievance procedure, but not appealable to the MSPB, the complainant may choose either the complaint procedure as described in Subpart B or use the negotiated grievance procedure.

(1) The choice is made when a timely grievance is filed in writing under a negotiated procedure or when the employee files a formal complaint under Subpart B.

(2) An employee who chooses the negotiated grievance procedure may ask the EEOC to review the final decision made under that negotiated procedure. (See § 588.49.)

§ 588.49 Final decision under the negotiated grievance procedure.

For seeking review by the EEOC or the MSPB, a final decision under the negotiated grievance procedure is defined as one of the following:

(a) The final grievance decision rendered by the activity, if the union

fails to invoke arbitration of the grievance (an employee cannot individually invoke arbitration.)

(b) The award rendered by an arbitrator, if neither the union nor management files an exception to the award with the Federal Labor Relations Authority (FLRA) [an employee cannot individually appeal an arbitration award to the Authority] or an arbitrator's award that cannot be appealed to the FLRA.

(c) The decision of the FLRA on appeal of an arbitration award.

§ 588.50 General allegations of discrimination.

General allegations of discrimination made by persons and special interest organizations, that are not within the scope of individual or class complaints, will be promptly answered by the Activity Commander or a designee. A copy of the response to the general allegation will be sent to the MACOM EEO officer and the Director of EEOCRA.

Subpart E—Remedial Actions

§ 588.51 General guidance.

(a) Upon a finding of discrimination, a complainant is entitled to remedial action that makes him or her whole unless the record establishes by clear and convincing evidence that the action complained of would have occurred even absent the identified discrimination. The aim of remedial action is to "make the complainant whole" or, to place the complainant in the situation he or she would be in if there had been no discrimination. Attorney fees and/or costs may also be awarded as outlined in § 588.54. Remedial action may include—

(1) Retroactive appointment or promotion with back pay.

(2) An opportunity for the complainant to have the benefit that had been denied, such as training, overtime scheduling, detailing, or other employment benefits.

(3) Cancellation of an unwarranted personnel action and expunction from the Army's records of any reference to, or any record of, an unwarranted disciplinary action that is not a personnel action.

(b) Corrective action may also be taken to change or eliminate personnel policies or practices and to take disciplinary action against ADOs. Disciplinary action against an ADO is not a personal remedy that may be requested by a complainant. It is, therefore, not an issue for decision in a

hearing or inquiry and is not to be specified in a decision on the complaint.

(c) The Army may also resolve complaints informally and award back pay and other remedial relief including attorney fees and/or costs without a finding of discrimination. The monetary award in such settlements, however, may not exceed the maximum backpay or other amount that would be recoverable under this regulation if a finding of discrimination had been made. The requirements of §§ 588.20(d), 588.20(e), 588.55 apply to such settlements.

§ 588.52 Remedial action involving an applicant.

Upon a finding of discrimination, the Army will offer the applicant the position denied him or her or employment of the type and grade denied him or her, unless the record contains clear and convincing evidence that the applicant would not have been hired even without discrimination. The remedial relief available to the applicant will conform to the following guidance:

(a) The offer is made in writing, giving the applicant 15 calendar days from receipt to accept or decline the offer. Failure to notify the Army of a decision within the 15-day period will be considered a declination of the offer, unless the applicant can show that circumstances beyond his or her control did not permit responding within the time limit.

(1) If the offer is accepted, the appointment is retroactive to the date the applicant would have been hired, subject to the limitation in b below. Back pay is awarded from the beginning of the retroactive period, subject to the same limitation, until the date the person actually enters on duty. The applicant is deemed to have worked for the Army during the (retroactive) period for all purposes except for meeting service requirements for completion of a probationary or trial period as required.

(2) If the offer is declined, the Army awards the applicant a sum equal to the back pay he or she would have received. Back pay will be computed from the date he or she would have been appointed until the date the offer was made, subject to the limitation of b below. The Army informs the applicant, in its offer, of his or her right to this award if the offer of employment is declined.

(b) Back pay may not accrue from a date earlier than 2 years before the date the complaint was initially filed by the applicant.

(c) If the Army or a Federal Court finds that discrimination existed at the time the applicant was considered for

employment, but also finds clear and convincing evidence that the applicant would not have been hired even without discrimination, the Army will consider the applicant for any existing vacancy of the type and grade for which he or she was considered initially and is qualified, before considering other candidates. If the applicant is not selected, the reasons for nonselection are recorded and made a part of the complaint file. If there is no vacancy, the Army gives the applicant priority consideration for the next vacancy for which he or she is qualified. This will take precedence over other priorities.

§ 588.53 Remedial action involving an employee.

Upon a finding of discrimination, the Army will take remedial actions that may include one or more of the following:

(a) Retroactive promotion. A retroactive promotion or assignment with back pay to the position denied the employee or an equivalent position may be provided as a remedy unless the record contains clear and convincing evidence that the employee would not have been promoted or employed at a higher grade even without discrimination. The back pay liability may not accrue from a date earlier than 2 years before the date the discrimination complaint was filed; however, in no case will the back pay liability accrue from a date before the earliest date the complainant could have been promoted.

(b) Priority consideration. A first consideration action (in connection with an initial hire, reassignment, or promotion) before other applicants or candidates are considered.

(c) Cancellation. Cancellation of an unwarranted personnel action and restoration of the employee.

(d) Deletion. The deletion from Army records of any reference to, or any record of, an unwarranted disciplinary action.

(e) Participation. Full opportunity to participate in the benefit denied complainant (for example, training or preferential work assignments).

§ 588.54 Award of attorney fees and/or costs.

(a) In complaints of discrimination, the Army or a Federal Court may award the applicant or employee who is represented by an attorney reasonable attorney fees and/or costs as a part of the remedial relief under this regulation. Except as provided in § 588.55, Army decisions will make such awards only when a finding or admission of discrimination is made. The award of

attorney fees and/or costs is not available in administrative cases of discrimination based on age.

(b) Attorney fees are paid only for services performed after a formal complaint has been filed under this regulation and after the complainant has notified the Army that he or she is represented by an attorney. However, the attorney may be compensated for a reasonable amount of time spent to make the decision to represent the complainant. Written submissions to the Army that are signed by the attorney shall be deemed to constitute notice of representation. Attorney fees are allowable only for services of members of the bar and law clerks, paralegals, or law students supervised by members of the bar. No award will be made for the services of any employee of the Federal Government. Attorney fees and/or costs are paid by the activity where the discrimination took place. Requests for attorney fees and/or costs will include all of the following:

(1) A statement of the number of hours spent in preparing and presenting the case. This must specify the dates that work was done on the case and detail the work performed. It must also describe the training and experience of each person who worked on the case and the number of hours spent by each.

(2) A sworn statement of the attorney's usual and customary hourly charge, and the usual fee for each person who worked on the case.

(3) A sworn statement explaining all of the following:

(i) Whether the fee for the case was fixed or contingent.

(ii) Whether the handling of the case prevented other employment.

(iii) The nature and length of the professional relationship with the client.

(iv) Any other factors that might affect the amount of the award.

(4) Sworn statements by other attorneys or the local bar association in the relevant geographic area, who work in employment discrimination, setting forth all of the following:

(i) The customary fee for such work.

(ii) The desirability of the case.

(iii) Awards in similar cases.

(iv) The reputation, ability, and experience of the attorney requesting the fees.

(5) Other information in the form required by courts in the awarding of attorney fees and costs.

(c) The complainant and his or her representative, if any, files a verified statement of attorney fees and/or costs as described in b above with the activity EEO officer within 20 days of receipt of the decision. The EEO officer will

immediately submit the request and supporting documents to the activity labor counselor for review and recommendation. The labor counselor will review and analyze in writing the request and supporting documents in accord with relevant judicial requirements and all the following:

- (1) *Attorney fees.* (i) The time and labor required.
- (ii) The novelty and difficulty of the questions.
- (iii) The skill requisite to perform the legal service properly.
- (iv) The preclusion of other employment by the attorney due to acceptance of the case.
- (v) The customary fee.
- (vi) Whether the fee is fixed or contingent.
- (vii) Time limitations imposed by the client or the circumstances.
- (viii) The amount involved and the results obtained.
- (ix) The experience, reputation, and ability of the attorney.
- (x) The undesirability of the case.
- (xi) The nature and length of the professional relationship with the client.
- (xii) Awards in similar cases.
- (2) Costs (as authorized by section 1920, title 28, United States Code (28 U.S.C. 1920)).

(i) Fees of the reporter for all or any of the stenographic transcripts necessarily obtained for use in the case.

(ii) Fees and disbursements for printing and witnesses.

(iii) Fees for exemplification and copies of papers necessarily obtained for use in the case.

(iv) Witness fees will be awarded in accord with the provisions of 28 U.S.C. 1821, except that no award will be made for a Federal employee who is in a duty status when made available as a witness.

(d) If the complaint is resolved at the activity, with a finding of discrimination, the Activity Commander or his or her designee, in consultation with the EEO officer and the labor counselor, is authorized to award attorney fees and/or costs provided agreement is reached on the amount of fees and/or costs and the amount is less than \$5,000. In cases where agreement cannot be reached, or where the amount is \$5,000 or more, the final award will be made by the Secretary of the Army or his or her designee. If the parties agree that attorney fees should not be awarded, the settlement agreement should include an explicit waiver of the complainant's right to seek fees.

(e) If the activity cannot reach a settlement on the fees and/or costs or the amount requested is \$5,000 or more, the activity labor counselor will review

the amount claimed and make a recommendation. This recommendation will be sent through the Labor and Civilian Personnel Law Office, Office of the Judge Advocate General, ATTN: DAJA-LC, WASH 20310-2209, for final decision by the Secretary of the Army or his or her designee as follows:

(1) If agreement is not reached at the activity within 20 calendar days after receiving the verified statement, upon receipt of the labor counselor's recommendations, the Secretary of the Army or his or her designee will issue a written final Army decision to the complainant on the amount of fees and/or costs.

(2) The decision should be issued within 30 calendar days after receipt of the verified statement.

(3) The decision will give specific reasons for the amount of the award and state the complainant's right to appeal the decision to EEOC or file a civil action in a Federal District Court.

(f) If the complaint of discrimination is resolved on the merits by a decision of the Secretary of the Army or his or her designee, the award of attorney fees and/or costs must also be made by the Secretary of the Army or his or her designee in accord with the procedures outlined in (e) above.

(g) All payment of attorney fees and/or costs will be made payable jointly to the complainant and the attorney of record.

§ 588.55 Informal no-fault settlement.

(a) Informal settlements of complaints may be reached though the Army need not admit fault, wrongdoing, or discrimination provided that the ROI indicates some merit to the allegation of wrongful action.

(b) The standard for informal settlement awards is stated in § 588.51.

(c) The Activity Commander, or his or her designee, in consultation with the EEO officer and the labor counselor, has authority to award attorney fees and/or costs as part of an informal settlement if agreement is reached between the parties and the amount to be awarded is less than \$5,000. If the parties do not reach agreement, or the amount is \$5,000 or more, the final award will be made by the Secretary of the Army or his or her designee.

Subpart F—Appeals and Civil Actions

§ 588.57 Appealing an Army decision.

(a) A complainant in an individual complaint of discrimination or a class agent in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To reject or cancel the complaint in whole or in part.

(2) To refuse to reinstate the complaint for further processing.

(3) On the merits of the complaint, the issue of attorney fees and/or costs, or the remedial action.

(b) A claimant in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To cancel or reject a claim for individual relief.

(2) On the merits of the claim for individual relief or the issue of attorney fees and/or costs.

(c) Except as provided in § 588.57(f) complainant in an individual complaint of discrimination may file a notice of appeal with the EEOC any time after receiving the Army Notice of Final Decision on his or her complaint but not later than 20 calendar days after receiving the decision. A notice of appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC. Any statement or brief to support the appeal must be sent to the EEOC and to EEOCRA, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days after the date the notice of appeal was filed.

(d) On receiving the complainant's statement or brief, EEOCRA will ask the activity to send management comments and copies of the case file. These comments must be coordinated between the activity EEO officer, labor counselor, and CPO, and must be received by EEOCRA early enough for EEOCRA to meet the EEOC suspense date. Comments will be prepared in a format that will permit forwarding to EEOC without editing or retyping.

(e) Except as in § 588.57(f) an agent or a claimant in a class complaint may file an appeal at any time after receiving a final Army decision, but not later than 15 calendar days after receiving the decision. An appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC.

(f) Usually, the time limits for filing a notice of appeal will not be extended by the EEOC. However, the EEOC, at its discretion, may extend the time limits and accept an appeal based on a written statement by the complainant. The statement must show that the complainant was not notified and not otherwise aware of the prescribed time limits, or that circumstances beyond his or her control prevented filing a notice of appeal or an appeal within the prescribed time limits.

(g) The EEOC Office of Review and Appeals reviews the complaint file and all relevant written representations made by the parties. The office may return the complaint to the Army for further investigation or for a new hearing, or may have an EEOC investigator look into the case. The office issues a written decision that sets forth its reasons for the decision and sends copies of the decision to the complainant, the designated representative and EEOCRA. EEOCRA will send the decision to the activity. If corrective action is ordered, the activity must take the action. The activity will promptly report to the EEOC compliance officer, with copies to the complainant, the MACOM, and EEOCRA, that the action has been taken.

(h) For purposes of an appeal to the EEOC, the Army decision is final only when all issues in the complaint, including the award of attorney fees and/or costs, have been resolved. If fees and/or costs are to be awarded, the decision will not be final until the procedure for determining the amount of the award has been completed.

§ 588.58 Review by the EEOC commissioners.

(a) The EEOC commissioners may, at their discretion, reopen and reconsider any previous decision when the requesting party files written argument or evidence that tends to establish one or more of the following:

(1) New and material evidence is available that was not readily available when the previous decision was issued.

(2) The previous decision involves an erroneous interpretation of law or regulation or a misapplication of established policy.

(3) The previous decision may set a precedent involving a new or unreviewed policy consideration that may have effects beyond the case at hand or, is otherwise of such an exceptional nature as to merit the special attention of the Commission.

(b) A copy of any statement or brief in support of a request to reopen and reconsider must be submitted to the EEOCRA as well as to the activity EEO officer.

(c) An Activity Commander or a designee who wishes to request reopening will consult the labor counselor to determine if the request meets the requirements of this paragraph. If so, the commander will send the request to EEOCRA for action. Any Army request to reopen and reconsider must be made within 30 days of the date of the EEOC Office of Review and Appeals decision.

(1) The request will be fully self-contained and will explain how the criteria of above applies to the case. It will be prepared to show an Army position rather than a local position and will be typed on plain bond paper.

(2) The request will be sent to EEOCRA as early as possible but not later than 7 work days before the 30-calendar-day time limit for requesting reopening and reconsideration expires.

(3) The request to reopen and reconsider will be prepared in a format that will permit forwarding to EEOC without editing or retyping.

(4) EEOCRA will check the submission for consistency with the case file and, if otherwise proper, will obtain approval from the Director of EEO.

(i) An Army request to reopen and reconsider may be submitted to EEOC only if approved by the Director of EEO.

(ii) Approval will be granted only when the Director of EEO finds that the submission is timely, meets EEOC criteria, and is in the best interest of the Army. Approval will not be granted routinely.

§ 588.59 Civil actions.

(a) A complainant in an individual complaint or an agent in a class action in a Federal District Court. Time limits for filing, except for complaints based on age (see § 588.6(c)(1)(iii)), are as follows:

(1) Within 30 calendar days after receiving the notice of the final Army decision on the complaint or claim.

(2) After 180 calendar days from the date of filing a complaint with the Army if there has been no decision.

(3) Within 30 calendar days after receiving the notice of the final EEOC decision on the complaint.

(4) After 180 calendar days from the date of filing an appeal with the EEOC if the EEOC has not made a decision.

(b) In complaints alleging age discrimination, the complainant can file a civil action in Federal District Court 30 days after providing notice to the EEOC of his or her intent to file a civil action. Such notice must be given to the EEOC within 180 days of the occurrence of the alleged discriminatory act. If a complainant elects to pursue his or her age complaint through the administrative procedures outlined in Subpart B then he or she may not file a civil action in Federal District Court until all administrative remedies (including an appeal of the final Army decision to the EEOC) have been exhausted.

(c) All Army decisions must notify the complainant of the right to file a civil

action and of the time limits for doing so. For civil action purposes, the Army decision is final only when a determination has been made on all the issues in the complaint, including whether or not to award attorney fees and/or costs. If attorney fees and/or costs are to be awarded, the decision will not be final until the procedure outlined in Subpart E for determining the amount of the award has been followed.

(d) The labor counselor will inform the activity EEO officer and the EEOCRA (ATTN: SFCR, WASH DC 20310-1813) when litigation is initiated on any EEO complaint. The following will be provided:

- (1) EEOCRA docket number.
- (2) Federal Court docket number.
- (3) Federal Court where the suit has been filed.
- (4) Date of filing.
- (5) Copy of Federal Court complaint.
- (6) Date suit terminated.
- (7) Copy of court order terminating suit.

Subpart G—Participation by the Alleged Discriminating Official

§ 588.60 General guidance.

(a) The purpose of the discrimination complaint procedure is to determine whether discrimination has occurred so that appropriate remedial action can be taken. Investigations and hearings in discrimination complaint cases are essentially fact-finding processes. Their purpose is to develop and record evidence on which an informed and impartial decision can be based. It is not the purpose of the complaint procedure to try individual officials. Complaints are lodged "against" the Army, not "against" individuals.

(b) Employees and applicants must be free to avail themselves of the discrimination complaint procedures without fear of reprisal. However, ensuring these rights of complainants is not done without regard for the rights of persons against whom allegations of discrimination have been made. Persons, named or otherwise, identified as ADOs have clearly defined rights and a significant role in the complaint process.

(c) A complainant cannot always be expected to know which person, if any, might have been responsible for a specific action or policy. Therefore, a complainant must not be required to identify ADO(s) in complaints of discrimination, but may do so if he or she believes particular persons have discriminated against him or her.

(d) The Army must ensure that persons named as ADOs are informed of all allegations made against them and are given a full and fair opportunity to respond to these allegations.

§ 588.61 The ADO at the informal stage.

(a) The informal counseling stage, the EEO counselor must solicit the views of an identified ADO unless the counselor obtains and provides information which clears the official to the satisfaction of the aggrieved person.

(b) Before the counselor interviews the ADO, the ADO must be told that he or she has been identified as a potential ADO. The ADO must be informed of the nature of any allegations made and must be told of the right to have a representative at the interview to advise him or her on how to respond to any questions the counselor may ask.

(c) The counselor must not reveal the identity of the aggrieved person when the aggrieved person has not authorized him or her to do so.

§ 588.62 The ADO during the USACARA investigation.

(a) The USACARA investigator must give an ADO the opportunity to respond to all allegations made against him or her and to review all documents that name or implicate the ADO and are to be included in the investigative file. Names and other identifying information of persons other than the complainant and the ADO will be deleted by the investigator from the copies shown to the ADO to protect these persons from an unwarranted invasion of their privacy. The investigator must also advise the ADO of his or her right to have a representative present.

(b) The investigator must give the ADO full opportunity to state the facts as he or she understands them, in affidavit form, for inclusion in the investigative file, and to name witnesses who might be questioned. The investigator must inform the ADO that only witnesses whose testimony is considered necessary to the investigation will be interviewed. Also, the investigator must tell the ADO that the only testimony to be obtained in affidavit form and included in the investigative file is that which the investigator deems relevant and necessary to the investigation.

(c) The activity EEO officer must keep the ADO informed of the progress of the investigation. When the investigation is completed, the EEO officer must review the investigative file to ensure that the ADO has had the opportunity to provide his or her version of the facts in response to each allegation. If the file shows that the ADO was not given this

opportunity, the EEO officer will return the case file to USACARA for appropriate action.

§ 588.63 Informal adjustment and proposed disposition.

(a) The Activity Commander or a designee may, at his or her discretion, consult with the ADO on the terms under which the activity will try to informally resolve the complaint.

(b) If an informal adjustment is agreed upon, the Activity Commander or his or her designee must inform the ADO of the terms of the agreement.

(c) If an agreement is not reached, the Activity Commander or a designee will give the ADO a copy of the proposed disposition.

§ 588.64 The ADO at a hearing.

(a) The ADO has the right to testify at the hearing and comment for the record on any allegations against him or her including new allegations made at the hearing. If the ADO has not been called to testify, the activity EEO officer must tell the ADO how and where to contact the labor counselor and the hearing examiner to arrange to testify or comment.

(b) The presence of the ADO and his or her representative, if any, at the hearing is limited to the time the ADO appears as a witness.

§ 588.65 The final Army decision.

(a) If the final Army decision finds discrimination, the Activity Commander or his or her designee will review the entire file and determine whether disciplinary action against the ADO is appropriate and record the basis for its decision. The decision shall not be included in the complaint file. If the decision is to take disciplinary action, the entire complaint file will be made available to the ADO for review. If no disciplinary action is taken against the ADO after a finding of discrimination, the complaint file will be made available to the ADO for review but names and identifying information of persons other than the complainant and the ADO will be deleted from the file. This action will be taken to protect such persons from an unwarranted invasion of privacy.

(b) If the activity takes or proposes adverse or other corrective action against the ADO based on the evidence developed in processing the complaint, the Activity Commander or his or her designee will make the entire complaint file, without deletions, available to the ADO for review. Corrective action may include requiring the ADO to complete EEO training or temporarily or permanently withdrawing the ADO's

selection or disciplinary authority. Though not disciplinary, such actions constitute censure and correction of the ADO's conduct or performance.

(c) If the final decision concludes there was no discrimination, the Activity Commander or his or her designee will give the ADO a copy, sanitized in accord with a, above, of the final Army decision only.

§ 588.66 Appeals to the EEOC.

If a complainant appeals the Army decision to the EEOC Office of Review and Appeals, the EEO officer must give the ADO a copy of the EEOC decision. If the decision of the EEOC reverses or modifies the Army decision with a finding of discrimination, the EEO officer will make the complaint file available to the ADO.

§ 588.67 Representing the ADO.

(a) The ADO has a right to have a representative present to advise him or her any time when the ADO must provide information during the complaint process. This includes the informal stage, the investigation, and the hearing.

(b) The role of the ADO representative at all stages of the EEO complaint process is limited to advising the ADO on how to respond to questions. The representative does not have the right to examine and cross-examine witnesses at the EEOC hearing (as may be done by the complaints examiner and the representatives of the complainant and the Army) because the ADO is not a party to the complaint.

§ 588.68 The ADO's role in class complaints of discrimination.

The principles and procedures in this chapter on the ADO's role in individual complaints of discrimination also apply to class complaints.

§ 588.69 Conflicts of interest.

When a person involved in the EEO complaint process (for example, EEO officer, Activity Commander, MACOM EEO officer) is named as an ADO, the procedures below will be followed in order to avoid a possible conflict of interest:

(a) *EEO Officer.* If an EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function in the processing of that complaint will be performed by the EEO officer at the next higher level. If the EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(b) *Activity Commander.* If an Activity Commander is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that commander's function in the processing of that complaint will be performed by the commander at the next higher level. If the Activity Commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(c) *Staff Judge Advocate (SJA).* If the SJA or senior legal officer of the servicing legal office is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, legal advice to the command in the processing of that complaint will be provided by the servicing legal office of the next higher level of command. If the SJA or senior legal officer is named as an ADO merely by virtue of his or her position, then he or she may continue to provide advice on the complaint.

(d) *Civilian Personnel Officer (CPO).* If the CPO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the CPO at the next higher level of command will provide personnel advice to the complainant.

(e) *MACOM EEO officer.* If a MACOM EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function within the processing of that complaint will be performed by a special EEO officer designated by the MACOM commander. If the MACOM EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(f) *MACOM commander.* If a MACOM commander is named as an ADO in a particular discrimination complaint based on actions he or she has taken against the complainant, that commander's function within the processing of that complaint will be performed by the Vice Chief of Staff of the Army. If the MACOM commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(g) *Director of EEO/Secretary of the Army.* If the Secretary of the Army or the Director of EEO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the Secretary of the Army will designate a DA official to perform the functions of the official named as an ADO. If the Secretary of the Army or the Director of EEO is named as an ADO merely by virtue of his or her position,

then he or she may continue to process the complaint.

Subpart H—Witnesses, Representation, Administrative Procedures, and Reports

§ 588.70 Arranging for witnesses.

(a) Army military and civilian personnel requested as witnesses by the EEO officer, the investigator, or the EEOC complaints examiner will be made available unless it is administratively impractical. If a needed Army witness is not under local administrative control, the Activity Commander or the EEO officer may ask the witness' commander to make that person available. Denials will be promptly referred to the EEO officer of the next higher level command of the requested witness. If the denial is not justified, the next higher level command will direct the organization to make the witness available.

(b) If a needed witness is employed by another Federal agency or has left Federal employment, he or she will be contacted by the EEO officer. The EEO officer will make every reasonable effort to ensure the presence of the witness. If the witness refuses to appear, the EEO officer will refer the matter to the investigator or the complaints examiner.

(c) A Federal employee is in an official duty status when he or she appears as a witness or is required to provide a statement under oath or affirmation.

§ 588.71 Complainant's and class agent's representative.

(a) A complainant or an agent in a class complaint has the right to be accompanied, represented, and advised by a representative of his or her own choice at any stage of the complaint process, including the informal counseling stage. No employee or military member is obligated to serve as a representative.

(b) The complainant or the class agent will designate the representative in writing. Any change will be reported in writing to the EEO officer, with copies to the counselor, investigator, or complaints examiner, as appropriate.

(c) The Army must be notified when an attorney is retained to represent a complainant or class agent. Written submissions to the Army that are signed by the representative are deemed to constitute notice of representation. This notice is required to establish the attorney's eligibility to claim fees and/or costs.

(d) After consulting with the SJA or senior legal officer of the servicing legal office, the Activity Commander or his or

her designee may deny permission to an Army employee or military member to serve as a representative if this would constitute a conflict of interest. This denial will be made in a letter to the complainant stating the reasons. The letter must tell the complainant that an appeal of the denial may be filed with the EEO officer within 5 working days after receipt of the denial. The denial and the appeal are then sent immediately to the Director, EEOCRA, ATTN: SFCR, WASH DC 20310-1813, for decision.

§ 588.72 Representing the Army in individual complaints.

(a) The Army is represented in complaint proceedings by the labor counselor (a judge advocate or a civilian attorney from the SJA or legal office). The labor counselor's role is to ensure that the Army's position is based on a sound legal theory and supported by competent evidence at both the investigative and hearing stages. The labor counselor does not represent the ADO.

(b) The labor counselor may have a CPO technical adviser at the hearing.

§ 588.73 Representing the Army in class complaints.

(a) The EEO counselor may seek legal advice from the servicing legal office during the informal stage of class discrimination complaints after consulting with his or her EEO officer.

(b) When an individual or class complaint is filed formally, the Activity Commander will appoint an Army judge advocate or civilian attorney as the labor counselor to represent the Army at the activity level as described in §§ 588.2 and 588.3.

§ 588.74 Using official time.

Under 29 CFR 1613.214, complainants, agents, and representatives who are Army employees have the right to a reasonable amount of duty time to prepare and present a complaint filed under this regulation. Employees must arrange in advance with their supervisors to use this duty time. Disagreements as to what is "reasonable" time are resolved by the Activity Commander or a designee. "Reasonable duty time" includes all time actually spent in meetings and hearings required by an Army or EEOC official plus a reasonable amount of preparation time. Reasonable time for preparation purposes is generally defined in terms of hours rather than days, weeks, or months.

§ 588.75 Hearing arrangements.

- (a) Expenses incurred in the administrative processing of an EEO complaint will be borne by the activity against which the complaint is lodged.
- (b) The servicing activity EEO officer will ensure that a court reporter is provided for the hearing and that the transcripts are sent directly to the EEOC complaints examiner. Use of Army employees to transcribe hearings is prohibited by the EEOC. However, interservice support agreements with the Navy and Air Force may be used instead of contracting for such services.
- (c) All requests to the EEOC for a hearing will contain instructions that the completed case file, with all copies of the transcript and the complaints examiner's recommended decision is to be sent to the Director, EEOCRA, ATTN: SFCR, WASH DC 20310-1813. If the examiner erroneously transmits the case file to the activity EEO officer, the case must be returned immediately to EEOC by registered mail with instructions for transmission to the Director, EEOCRA.

§ 588.76 Complaint file.

- (a) The EEO officer will compile a complaint file that will include all documents pertinent to the complaint except for the Army decision regarding action against the ADO.
- (b) The file will not contain any document that has not been made available to the complainant or his or her representative.
- (c) The file will be indexed. The file will also be tabbed in reverse chronological order and will contain legible copies of the following documents, when applicable, and in the order listed below:
- (1) Tab O.
 - (i) EEO Complaint Data Sheet: DA Form 5493-R (Individual Complaint Data Sheet) or DA Form 5494-R (Class Complaint Data Sheet).
 - (ii) Complaint Chronology Sheet: DA Form 5495-R (Chronology of Individual EEO Complaint) or DA Form 5496-R (Chronology of Class EEO Complaints).
 - (iii) DA Form 5497-R (Disposition of Complaint of Discrimination).
 - (2) Tab N.
 - (i) Final Army decision.
 - (ii) Return receipt or other evidence of complainant's receipt of final Army decision.
 - (3) Tab M. EEOC complaints examiner's report of findings, analysis, and recommendations.
 - (4) Tab L. Verbatim transcript of EEOC hearing and all exhibits.
 - (5) Tab K. EEO officer's letter to EEOC requesting assignment of a complaints examiner.

- (6) Tab J.
- Request for Army decision without a hearing.
- Request for hearing before EEOC.
- (7) Tab I.
- (i) Proposed disposition.
- (ii) Notice to complainant of adoption of proposed disposition as Army final decision if complainant has failed to respond within 15 days.
- (8) Tab H.
- (i) Record of adjustment conference.
- (ii) Settlement agreement is signed by all parties and documents showing implementation.
- (iii) Written withdrawal of complaint by complainant, if applicable.
- (9) Tab G.
- (i) Record of transmittal of USACARA ROI to activity.
- (ii) Record of transmittal of USACARA ROI to complainant.
- (10) Tab F. Entire investigator's report including exhibits tabbed as received from the investigator.
- (11) Tab E.
- (i) EEO Officer's request to USACARA for appointment of an investigator.
- (ii) USACARA response to EEO officer.
- (iii) EEO officer's notice to labor counselor of date, time, and location of USACARA investigation.
- (12) Tab D.
- (i) Appointment letter of labor counselor as Army representative.
- (ii) Written designation by complainant of his or her representative
- (13) Tab C.
- (i) Formal EEO complaint, DA Form 2590-R.
- (ii) EEO officer's acknowledge receipt of the formal complaint.
- (iii) EEO officer's acceptance of the formal complaint.
- (iv) EEO officer's rejection or cancellation of the formal complaint.
- (14) Tab B.
- (i) Notice of Final interview.
- (ii) EEO counselor's final report.
- (iii) 21-day letter, if applicable.
- (15) Tab A. All allied papers (all documents relevant to the case but not specifically included in the above section attached in reverse chronological order).
- (d) All EEOC appellate documents will be tabbed in reverse chronological order with Arabic numerals.
- (e) All civil litigation documents will be tabbed in reverse chronological order with Roman numerals.
- (f) When the complainant requests a decision by the Secretary of the Army or his or her designee on the basis of the record as it stands, or after a hearing, the original case file will be clearly indexed and tabbed as described in

paragraph c above and all pages will be clearly legible.

(1) Every complaint file will contain an EEO complaint data sheet. See DA Form 5493-R for individual EEO complaints and DA Form 5494-R for class EEO complaints. The data sheet will be filled out by the EEO counselor and the activity EEO officer. Any entry contrary to the provisions of this regulation should be explained by the responsible EEO official in the "Remarks" section of the data sheet. These DA Forms will be reproduced locally on 8 1/2- by 11-inch paper. Copies for reproduction purposes are located at the back of this regulation.

(2) Every complaint file will contain an EEO chronology sheet completed by the activity EEO officer and the EEOCRA. See DA Form 5495-R for individual EEO complaints and DA Form 5496-R for class EEO complaints. The chronology sheet will account for the processing time from the date of the alleged discriminatory action to the final Army decision and any administrative or judicial appeal. Failure to meet any administrative suspense established by this regulation should be fully explained in the "Remarks" section of this chronology sheet. These DA Forms will be reproduced locally on 8 1/2- by 11-inch paper. Copies for reproduction purposes are located at the back of this regulation.

§ 588.77 Complaints reporting.

- (a) The EEO counselor will complete DA Form 5492-R at the time of the final interview and submit it to the EEO officer in accord with § 588.13(d). The EEO officer will transmit copies of this report to EEOCRA and the MACOM of the activity against which the complaint is lodged upon termination of counseling.
- (b) *Individual formal complaint reporting.* (1) Immediately upon receipt of a formal EEO complaint (DA Form 2590-R), the activity EEO officer will complete and dispatch a copy of the formal complaint to the Director, EEOCRA, ATTN: SFCR, WASH DC 20310-1813. Receipt of the complaint will be acknowledged, in writing, by EEOCRA. The acknowledgment will contain a docket number assigned to the case by EEOCRA which will be used throughout the processing of the EEO complaint. This docket number does not replace the docket number assigned by USACARA, rather it is used as a control to identify the records in EEOCRA.
- (2) After receiving the EEOCRA docket number, the EEO officer will use the docket number on all documents generated or submitted by the activity

EEO officer in the processing of the complaint.

§ 588.78 Disposition of complaints of discrimination

(a) When action on a complaint of discrimination has been completed at the activity level, the case record will be promptly forwarded to the Director, EEOCRA, ATTN: SFCR, WASH DC 20310-1813. When the case has been closed at the activity, instructions set forth in § 588.78(b) will be followed. When a hearing is requested, one copy of the file, similarly compiled, will be forwarded to the EEOC district office that will provide the complaints examiner. Additionally, one copy of the file, similarly compiled, will be forwarded to EEOCRA. In all cases, the chronology of events will be completed and included in the case file. (See § 588.76) This will apply whether forwarded to the EEOC complaints examiner for a hearing or to the EEOCRA for a decision on the record.

(b) Cases closed at the activity level are as follows:

(1) Cases are closed at the activity level as a result of rejection, cancellation, withdrawal, termination, adjustment, or decision on the merits.

(2) If a formal EEO complaint is closed in whole at the activity level, the EEO officer will submit the original file and one copy to EEOCRA, compiled in accord with § 588.66, and DA Form 5497-R. Submissions will be made within 10 days after the complaint is closed. If the complaint has been closed in part, two legible copies of the file will be forwarded to EEOCRA within 10 days, compiled in accord with § 588.66 along with DA Form 5497-R. Such case files will be notated as partial closure.

(c) Activities and MACOMs will be notified of cases closed at the DA level by receipt of a copy of the final Army decision signed by the Secretary of the Army or his or her designee.

§ 588.79 Travel and other costs.

For individual complaint as well as class complaints of discrimination, travel and other related expenses will be as follows:

(a) Travel and per diem expenses of USACARA investigators will be funded by the activity against which the alleged discrimination is lodged.

(b) Expenses of the Army investigators, counselors, or investigators from other Federal agencies will be funded by the activity

where the alleged discrimination took place.

(c) Expenses of the EEOC complaints examiner are paid for by EEOC.

(d) Travel expenses of Army personnel (complainants, representative, or witnesses), whose travel is required by a complaints examiner or other authorized official, will be funded by the activity against which the complaint is lodged.

(e) Travel expenses of non-Army personnel (applicants/complainants) will not be paid in advance by the Army. Nor, if they are Federal employees, can their expenses be paid by their agencies unless their role concerns official business of the current employers. A successful applicant/complainant, may, however, be reimbursed for such travel expenses as part of his or her costs.

(f) If a complaint of discrimination is filed against a tenant organization, the tenant organization will pay the hearing costs, investigative costs, attorney fees and/or costs unless otherwise provided for in a host-tenant agreement. Problems that develop between host and tenant organizations will be promptly referred for resolution to the parent MACOM.

(g) If the complaint involves a nonappropriated fund (NAF) activity, the costs will be borne by the host activity (that is, the appropriated fund activity that heads the installation where the NAF is assigned).

Appendix A—Steps in Individual Complaints of Discrimination

Action	Time limits
1. Employee or applicant must see EEO counselor or EEO officer.	Within 30 calendar days after the alleged discrimination, personnel action, or when the complainant becomes aware or reasonably should have become aware of the action.
2. EEO counselor makes inquiry, tries to resolve complaint informally, conducts final interview, and, if complaint is not resolved, gives complainant written notice of right to file formal complaint.	Within 21 calendar days after matter first called to EEO counselor's attention.
3. Complainant files formal complaint (DA Form 2590-R) in writing with EEO officer or other designated official. Must advise EEO officer if he or she obtains legal or other representation.	Within 15 calendar days after receipt of the Notice of Final Interview or if final interview not held, anytime after 21 days from initial contact with the EEO counselor.
4. EEO officer accepts or rejects the formal complaint in whole or in part.	Within 5 calendar days after receipt of complaint.

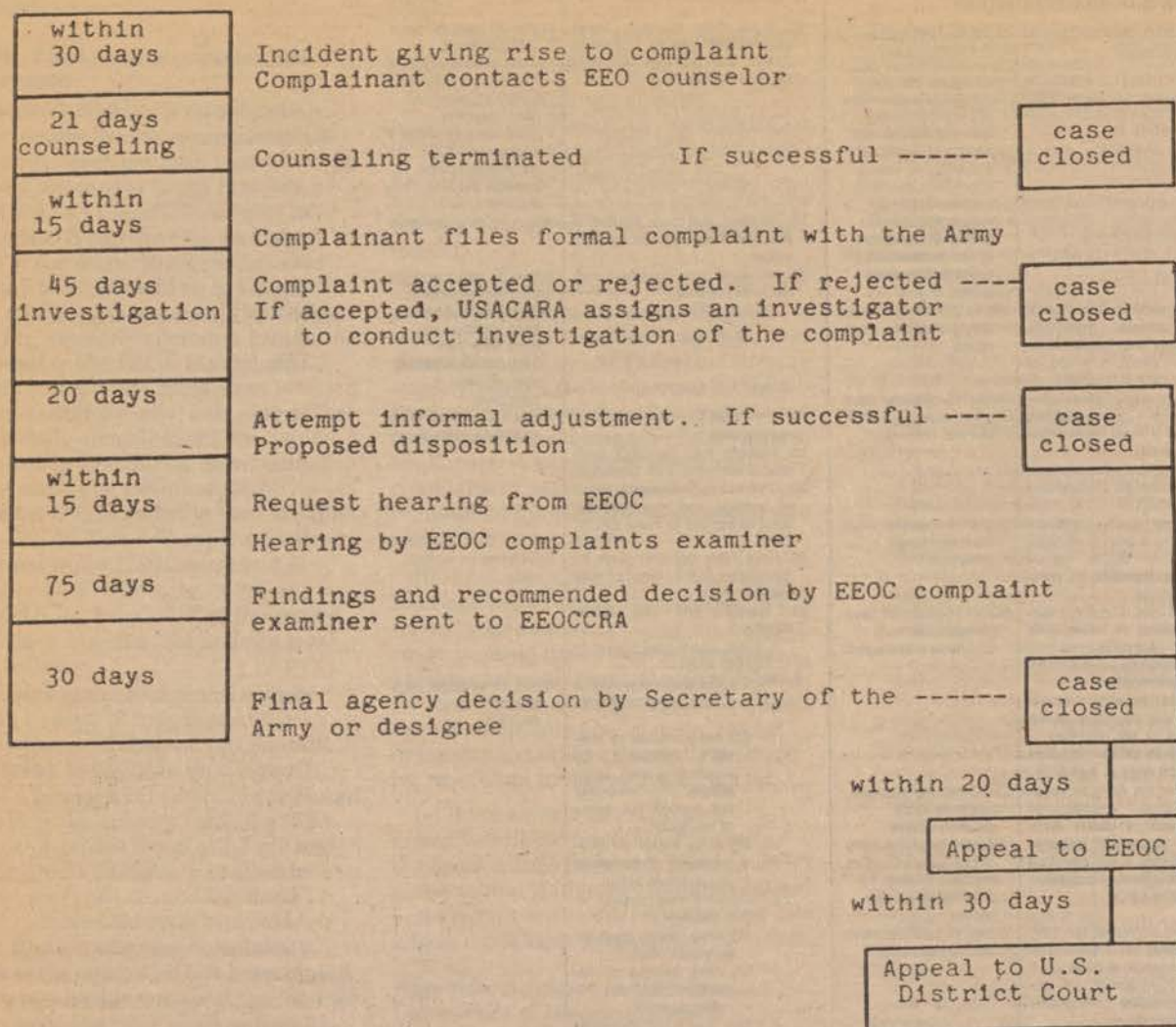
Action	Time limits
5. EEO officer sends file to USACARA requesting assignment of an investigator if any part of complaint is accepted. If complaint is rejected, EEO officer notifies complainant and representative.	Within 3 calendar days after acceptance.
6. USACARA investigator completes investigation and sends ROI to activity.	Within 45 calendar days from assignment.
7. USACARA ROI furnished to complainant and an adjustment meeting offered.	Within 5 calendar days after receipt of USACARA ROI.
8. If adjustment meeting held and adjustment reached— a. Written agreement specifying terms of proposed disposition is signed by both parties. Copy is given to complainant. b. Activity Commander takes action agreed upon.	
9. If adjustment meeting is not held or no adjustment is reached— a. Activity Commander issues a proposed disposition, including finding issues of discrimination and proposed remedial action including appeal rights. b. Complainant informed of right to request EEOC hearing or Army decision without hearing. c. If complainant fails to respond, Activity Commander adopts proposed disposition as final Army decision and notifies complainant and representative. d. If complainant asks for decision without hearing, EEO officer sends complaint file (original and one copy) to EEOCRA. e. If complainant requests hearing, EEO officer requests complaints examiner from EEOC.	Within 20 calendar days from receipt of USACARA ROI.
10. Hearing held and findings and recommendations sent by EEOC complaints examiner to EEOCRA.	Same as a above.
11. Army final decision by the Director of EEO to include appeal right.	Within 15 calendar days after notice proposed disposition.
12. Appeal to EEOC: a. Complainant sends notice of appeal to EEOC with copy to EEOCRA. b. Complainant sends statement or brief to support appeal of Army decision to EEOC, with a copy to EEOCRA.	Same as c above.
13. Civil action by complainant: a. Before final Army decision... b. Instead of appeal to EEOC after Army final decision. c. Before EEOC final decision or appeal. d. After EEOC final decision on appeal.	Same as c above.

Note.—In age complaints, a complainant must appeal the Army decision to the EEOC before filing a civil action in a Federal District Court.

Appendix B—Steps in Individual Complaints of Discrimination

Action	Time limits
1. Class agent contacts EEO counselor about class complaint.	Within 90 calendar days after the alleged discriminatory matter, personnel action, or the date that the aggrieved person became aware or reasonably should have become aware of the discriminatory event or personnel action.
2. EEO counselor makes inquiry, attempts informal resolution, and conducts final interview. Informs class agent, in writing, of right to file formal complaint.	Within 30 calendar days after contact by class agent.
3. Class agent files formal complaint with EEO officer. Notifies EEO officer if legal representation is obtained.	Within 15 calendar days after receiving Notice of Final Interview.
4. EEO officer coordinates with labor counselor on class status of complaint.	
5. EEO officer sends complaint file, including a brief if deemed necessary, to EEOC district office for assignment of complaints examiner.	Within 10 calendar days after receiving complaint.
6. Allegations not discussed with EEO counselor or nonspecific allegations are returned by EEOC complaints examiner for additional information.	Within 15 calendar days for response from activity or class agent.
7. Complaints examiner recommends to the Secretary of the Army or his or her designee to accept, reject or cancel complaint. Sends copy to agent.	
8. Secretary of the Army or his or her designee decides to accept, reject, or cancel complaint. If decision is to reject or cancel, advises class agent of right to file individual complaint and appeal to EEOC.	EEOC recommendation becomes Army decision unless Secretary of the Army or designee rejects or modifies it within 10 calendar days after receipt.
9. If complaint accepted, the EEO officer notifies all class members of existence of class complaint and right to opt out. Activity Commander designates Army representative.	Within 15 calendar days after acceptance.
10. Class members may opt out. (Final decision binding on all members who do not opt out.)	Within 30 calendar days after issuance of notice.
11. All parties to complaint develop evidence and send it to EEOC. Complaints examiner may direct investigation.	Within 60 calendar days after notification by the EEOC complaints examiner.
12. Informal resolution attempted by class agent and Army.	
13. If no resolution, hearing by EEOC complaints examiner.	
14. EEOC complaints examiner's findings and recommendations forwarded to EEOCRA.	
15. Final Army decision. Agent informed of right to appeal to EEOC and file civil action in Federal District Court.	Within 30 calendar days after receiving complaints examiner's report. If no decision within 30 calendar days, then the complaints examiner's findings and recommendations become the final Army decision.
16. All class members notified of the final Army decision by EEO officer.	Within 10 calendar days.
17. Individual class members may file written claim.	Within 30 calendar days after Army decision. Persons must have been affected no more than 135 calendar days before filing of class complaint.
18. Army tries to resolve claim at activity level.	Within 60 calendar days after date claim filed.
19. Hearing held by EEO complaints examiner if no resolution.	
20. Complaints examiner's report of findings and recommendations forwarded to Army EEOC-CRA.	
21. Final Army decision made by Secretary of the Army or his/her designee.	Time limits as in step 15.
22. Appeals and Civil Action Rights:	
a. Class agent may appeal to EEOC when—	
(1) Complaint rejected or canceled by the Army.	Within 15 calendar days after the Army decision.
(2) Army refuses to reinstate complaint for processing after agent alleges that Army has not carried out terms of resolution.	
(3) Army issues decision on merits of complaint or corrective action.	
b. Claimant may appeal to EEOC when—	
(1) Army rejects claim for individual relief.	
(2) Army decides on adjustment of claim for individual relief.	
c. Class agent and claimants may file a civil action when—	
(1) Army issues final decision on complaint or claim.	Within 30 calendar days.
(2) There has been no Army decision on complaint or claim.	After 180 calendar days from date of filing formal complaint or claim with Army.
(3) EEOC issues decision on appeal.	Within 30 calendar days.
(4) Appeal was made to EEOC and no decision has been given.	After 180 calendar days from date of filing formal complaint or claim with EEOC.

Note.—In age discrimination complaints, an agent must appeal the Army decision to the EEOC before filing a civil action in a Federal District Court.



Notes:

1. In age discrimination complaints, a complainant must appeal the Army decision to the EEOC before filing a civil action in a Federal District Court.
2. All "days" refer to calendar days.

Appendix C—Procedural Steps in an Individual Discrimination Complaint

Appendix D—Sample Format: Avenues of Redress for Army Employees

Subject: Avenues of redress for Army employees

From: EEO officer

To: (Name of person counseled)

1. Grounds for discrimination complaint. If you believe you have been

discriminated against because of race, color, religion, sex, national origin, age, physical or mental handicap and/or reprisal, or in an employment matter

subject to the control of the Army, you may have the choice of more than one route to file a complaint and have it resolved.

2. Options for employees outside of the bargaining unit. If you are not a member of a bargaining unit covered by a union contract, you may select one of the following options:

a. The discrimination complaint procedure (covered by AR 690-xxx). Your first step under that procedure is to contact an EEO counselor within 30 calendar days from the date the act of discrimination took place or the date you became aware, or reasonably should have become aware, of the act of discrimination. If the counselor cannot resolve your problem, you may file a formal complaint. The counselor will tell you with whom to file your complaint and will explain complaint procedures. These include an investigation by the U.S. Army Civilian Appellate Review Agency, a hearing by the Equal Employment Opportunity Commission (EEOC), and a final decision by the Army.

b. The Merit Systems Protection Board (MSPB) appeal procedure. This procedure is available to you only if the alleged discriminatory action can be appealed to the MSPB, such as a removal, a suspension for more than 14 days, or any other appealable action. (Usually, you will be notified in writing of your right to appeal to the MSPB.) The time limit for appeal to the MSPB is 20 days after the effective date of the personnel action which you believe discriminated against you. Under an MSPB appeal, you are entitled to a hearing by the MSPB. You may ask the EEOC to review the final decision of the MSPB.

3. Options for employees within the bargaining unit. If you are a member of a bargaining unit covered by a union contract and if the negotiated grievance procedure in that contract does not exclude discrimination issues, you may have the following options:

a. In actions under 5 U.S.C. Section 7512 (Removal, suspension for more than 14 days, reduction in grade, reduction in pay, furlough for 30 days or less) and 5 U.S.C. Section 4303 (Removal or reduction in grade for unacceptable performance), you have the following options. First, you may follow the discrimination complaint procedure described in paragraph 2a above. Second, you may follow the MSPB procedures described in paragraph 2b above. Third, you may follow the negotiated grievance procedure. Your union contract outlines the steps involved in a negotiated grievance procedure, which include an informal

and a formal grievance with specific time limits for filing, and a decision by Army management. The next step, arbitration, may be requested only by the union or by the Army, not by you. If you choose the negotiated grievance procedure, you have the right to appeal the final Army decision or the arbitration award to the EEOC. Note that decisions in 5 U.S.C. Section 7512 or 4303 cases are not appealable to the Federal Labor Relations Authority (FLRA).

b. In actions not covered by 5 U.S.C. section 7512 or 4303, but otherwise appealable to MSPB, you have access to the MSPB procedures only if such actions are excluded from the grievance procedure. If they are covered by the grievance procedure, the option is between the discrimination complaint procedure under AR 690-xxx or the negotiated grievance procedure. If you choose the negotiated grievance procedure, you have the right to appeal the final decision (Army decision, arbitration award, or FLRA decision) to the EEOC or MSPB, as appropriate. Note that in actions not appealable to the MSPB, but covered by the grievance procedure, you may choose between the grievance procedure or the complaint procedure under AR 690-xxx.

4. Election of avenues of redress.

a. Your appeal to the MSPB will not be accepted if you have filed a timely formal complaint in writing, under AR 690-xxx or a timely written grievance under the negotiated procedure.

b. A discrimination complaint under AR 690-xxx will not be accepted if you have filed a timely appeal to the MSPB or a timely written grievance under the negotiated procedure.

c. A grievance under the negotiated procedure will not be accepted if you have filed a timely appeal to the MSPB or if you have initiated action under the discrimination complaint procedure in AR 690-xxx.

5. Additional information on avenues of redress. If you have any other questions on this matter, you may contact the management/employee relations section of the civilian personnel office, your union representative, or your activity EEO office.

Appendix E—Sample Format: Notice of Interview With EEO Counselor

Subject: Notice of Final Interview

From: EEO Counselor

To: (Name of Person Counseled)

1. This is notice that on the above date the final counseling interview was held in connection with the matter you presented to me as an EEO counselor.

You initially contacted me on (DATE). You alleged that you were a victim of (SPECIFY) discrimination in the following action(s): (SPECIFY THE FACTS THAT ARE THE BASIS OF THE DISCRIMINATION COMPLAINT.)

2. If you believe you have been discriminated against on the basis of race, color, religion, sex, age, national origin, mental/physical handicap, and/or reprisal for participation in a Title VII activity, you have the right to file a complaint of discrimination within 15 calendar days after receipt of this notice.

3. This complaint must be in writing, preferably on a DA Form 2950-R, which can be obtained from the Equal Employment Opportunity Office. Your complaint must be filed in person or by mail with the following officials authorized to receive discrimination complaints:

- a. Equal Employment Opportunity Officer
(ADDRESS)
- b. Activity Commander
(ADDRESS)
- c. Federal Woman's Program Manager
(ADDRESS)
- d. Director of Equal Employment Opportunity, Department of the Army
ATTN: SFCR
WASH, DC 20310-1813
- e. Secretary of the Army
ATTN: SFCR
WASH, DC 20310-1813

4. The formal complaint should specify the issues which form the basis for the complaint and the matter giving rise to the complaint which were discussed with the EEO counselor. If you add issues not counseled, the formal complaint will be returned to you for further counseling.

5. If an attorney is retained as a representative, you must notify the EEO officer (NAME AND ADDRESS).

(SIGNATURE BLOCK)

EEO counselor

Notes:

- 1. This notice is to be given to the person counseled at the final interview.
- 2. A copy of this notice will be provided to the EEO officer with the counselor's report and made part of file.

Appendix F—Sample Format: Notice of Right To File a Discrimination Complaint

Subject: Notice of Right To File a

Discrimination Complaint

From: EEO Counselor

To: (NAME OF PERSON COUNSELED)

1. Although my inquiry into the matter you brought to my attention has not

been completed, 21 calendar days have passed since you first contacted me and you are now entitled to file a discrimination complaint based on race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal. If you do not file a complaint at this time, my inquiry will continue and your right to file a complaint will continue until 15 calendar days after the final interview with me. I will inform you in writing when the final interview is conducted. If you file a complaint, it must be in writing, preferably using DA Form 2590-R, and filed in person or by mail with the following officials authorized to receive discrimination complaints:

- a. Equal Employment Opportunity Officer
(ADDRESS)
- b. Activity Commander
(ADDRESS)
- c. Federal Women's Program Manager
(ADDRESS)
- d. Director of Equal Employment Opportunity
Department of the Army
ATTN: SFCR
WASH, DC 20310-1813
- e. Secretary of the Army
ATTN: SFCR
WASH, DC 20310-1813

2. If you file your complaint with one of the officials listed above, it will be sent to the activity EEO officer for processing. Therefore, if you choose to file your complaint with any of the officials listed above be sure to provide a copy of your complaint to the EEO officer to ensure prompt processing of your complaint.

3. The complaint must be specific and must be limited to the matters discussed with me. It must also state whether or not you have filed a formal grievance or an appeal to the Merit Systems Protection Board on the same matters. Additionally, you must state whether you are having this matter considered under a negotiated grievance procedure.

4. You or your representative must immediately notify the EEO officer, in writing, if you retain an attorney or any other person to represent you.

(SIGNATURE)
EEO counselor

Notes:

1. This notice is to be given to the person counseled 21 days after the counselor was first contacted on this matter by the complainant.

2. A copy of this notice will be provided the EEO officer with the counselor's report and made a part of the complaint file.

Appendix G—Sample Format: Notice of Receipt of Discrimination Complaint

Subject: Notice of Receipt of
Discrimination Complaint
From: EEO Officer
To: (COMPLAINANT)

1. This notice acknowledges receipt of your discrimination complaint dated (DATE), and gives you a written notice of your rights and the time requirements for exercising these rights. If you have further questions, please ask your EEO counselor or contact me.

2. If your complaint is accepted, it will be investigated. Based on the information developed by the investigation, an attempt will be made to resolve your complaint informally. You will receive a copy of the investigative report and have an opportunity to discuss it with an Army official.

3. If your complaint, or any allegation contained in it, is rejected, the rejection is considered to be a final Army decision on the complaint or that part of the complaint which is rejected. You will receive a notice by separate letter if your complaint or any part of it is rejected. You will be advised at that time of your rights of appeal.

4. If a complaint is settled, the terms of the settlement will be stated in writing and you will be given a copy.

5. If a complaint is not settled you will be notified in writing of the proposed disposition of the complaint. You will also be notified of your right to a hearing by an Equal Employment Opportunity Commission (EEOC) complaints examiner who will recommend a decision to the Army, or to a decision by the Army without an EEOC hearing. If you want a hearing or a decision by the Army without a hearing, you must notify the Army in writing within 15 days after receiving the proposed disposition of your complaint. Your request for a hearing or for an Army decision without a hearing must be addressed to me in order that I can make the necessary arrangements.

6. If, within 15 days after your receipt of the proposed disposition, you fail to request a hearing or to ask for a decision by the Army without a hearing, that disposition will become the final Army decision.

7. If you are dissatisfied with the final Army decision (with or without a hearing), you may file a notice of appeal to the EEOC Office of Review and Appeals within 20 calendar days after receiving the decision. A copy of the notice should be sent to EEOCRA ATTN: SFCR, WASH DC 20310-1813. Also, you may submit a brief or statement to support your appeal within

30 calendar days after filing the notice of appeal. At the same time, you must furnish a copy of the supporting brief or statement to EEOCRA.

8. Any appeal to the EEOC should be addressed to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW., Wash D.C. 20506. The appeal and any representations in its support must be filed in duplicate.

9. Instead of an appeal to the EEOC, you may file a civil action in a proper Federal District Court within 30 calendar days after receiving the Army decision or, if the Army has not issued a final decision on your complaint, after 180 calendar days from the date the formal complaint was filed.

10. If you decide to appeal to the EEOC Office of Review and Appeals, you will still have an opportunity to file a civil action in a Federal District Court within 30 calendar days after receiving the EEOC's final decision, or 180 calendar days after the date of your initial appeal to the Commission if EEOC has not rendered a final decision.

(SIGNATURE BLOCK)

EEO Officer

Notes:

1. The notice is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative. If the notice is personally delivered, the complainant and his or her representative will acknowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.

2. A copy of the notice given to the complainant will be filed in the complaint file. In age discrimination cases, references to the right to file a civil action (paras 4 and 5) will specify that the complainant can file a civil action in a Federal District Court 30 days after providing notice to the EEOC of his or her intent to file a civil action. Such notice must be given to the EEOC within 180 days of the occurrence of the alleged discriminatory act. If a complainant elects to pursue his or her age discrimination complaint through the administrative procedures outlined in chapter 2, then he or she may not file a civil action in a Federal District Court until all administrative remedies (including an appeal of the final Army decision to the EEOC) have been exhausted.

Appendix H—Negotiated Settlement Agreement**NEGOTIATED SETTLEMENT AGREEMENT****IN THE MATTER OF:**

(NAME)

Complainant

AND

(NAME OF ORGANIZATION)

1. In the interest of promoting its Equal Employment Opportunity Program and to avoid protracted litigation, the Army agrees to settle the above-captioned complaint on the basis shown below.

2. By entering this settlement, the Army does not admit that it has violated the Civil Rights Act of 1964, as amended, or any other Federal or State statute or regulation.

3. The Army agrees to (SPECIFY REMEDY TO BE PROVIDED AND PROCESS BY WHICH REMEDY IS TO BE PROVIDED).

4. Complainant's signature on this agreement constitutes the withdrawal of his or her complaint. In addition, the complainant agrees that he or she waives his or her right to sue over the matters raised in this complaint and that will not be made the subject of future litigation.

5. If the Army does not carry out, or rescind, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the Army shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment. If the Activity Commander determines that the terms of the adjustment have been implemented, a decision declining to reinstate the complaint will be issued and the complainant will be advised of his/her appeal rights to EEOC.

6. I have read the Negotiated Settlement Agreement and accept and agree to its provisions.

For the Army

(ACTIVITY COMMANDER'S SIGNATURE)

Date _____

Complainant

(Complainant's signature)

(Signature of Complainant's representative, if any)

Date _____

Appendix I—Sample Format—Notice of Proposed Disposition of Discrimination Complaint*Subject:* Notice of Proposed Disposition of Discrimination Complaint*From:* Activity Commander*To:* (COMPLAINANT)

1. This notice is to inform you of the proposed disposition of your discrimination complaint and of your rights if you are dissatisfied with the proposed disposition.

a. Proposed disposition. (STATE THE SPECIFIC PROPOSED DISPOSITION OF THE COMPLAINT. INCLUDE A LEGAL ANALYSIS OF THE COMPLAINT, DISCUSSION OF THE FACTS, FINDING ON THE ISSUE OF DISCRIMINATION, AND A STATEMENT OF PROPOSED REMEDIAL ACTION IF APPLICABLE.)

b. Right to a hearing.

(1) If you are dissatisfied with the proposed disposition, you may request a hearing by the Equal Employment Opportunity Commission (EEOC) and a decision by the Army if you notify the EEO officer (PROVIDE SPECIFIC MAILING ADDRESS) within 15 calendar days after receiving this notice, that you desire such a hearing.

(2) If you request a hearing, you are expected to proceed without delay in presenting your complaint before the assigned EEOC complaints examiner. If you plan to have a representative, you should immediately obtain representation. You should also begin preparing a list of proposed witnesses with a summary of the testimony you believe each would present at the hearing. The complaints examiner will request this list immediately after being assigned to your case.

(3) The failure to prosecute your complaint in a timely fashion may be grounds for the complaints examiner to return your case to the Army. The Army may then cancel your complaint or issue a final decision based on the evidence present in the complaint file.

c. Right of decision without a hearing. If you are dissatisfied with the proposed disposition, you may request a decision by the Secretary of the Army or his or her designee without a hearing, based on the evidence in the complaint file. This request must be made to

(ACTIVITY EEO OFFICER) within 15 calendar days after receiving this notice.

d. Right of appeal. If you fail to notify the EEO officer of your intentions within the 15-day period, I or my designee may adopt as the Army final decision the proposed disposition shown above and will so notify you in writing. On receiving notification, you may file a notice of appeal to the EEOC Office of Review and Appeals within 20 calendar days. You may also submit a brief or statement to the EEOC to support your appeal within 30 calendar days after filing the notice of appeal. You must furnish the Equal Employment Opportunity Compliance and Complaint Review Agency (EEOCCRA); ATTN: SFCR WASH DC 20310-1813, with a copy of your appeal and a brief or statement. Instead of an appeal to the EEOC, you may file a civil action in a proper Federal District Court within 30 calendar days after you receive the final Army decision. If the Army has not issued a final decision, a civil action may be filed 180 calendar days after the date you filed your formal complaint.

2 If you appeal to the EEOC, you may still file a civil action within 30 calendar days after receiving the EEOC decision. You may also file a civil action 180 days after your appeal to EEOC if you have not received a final decision.

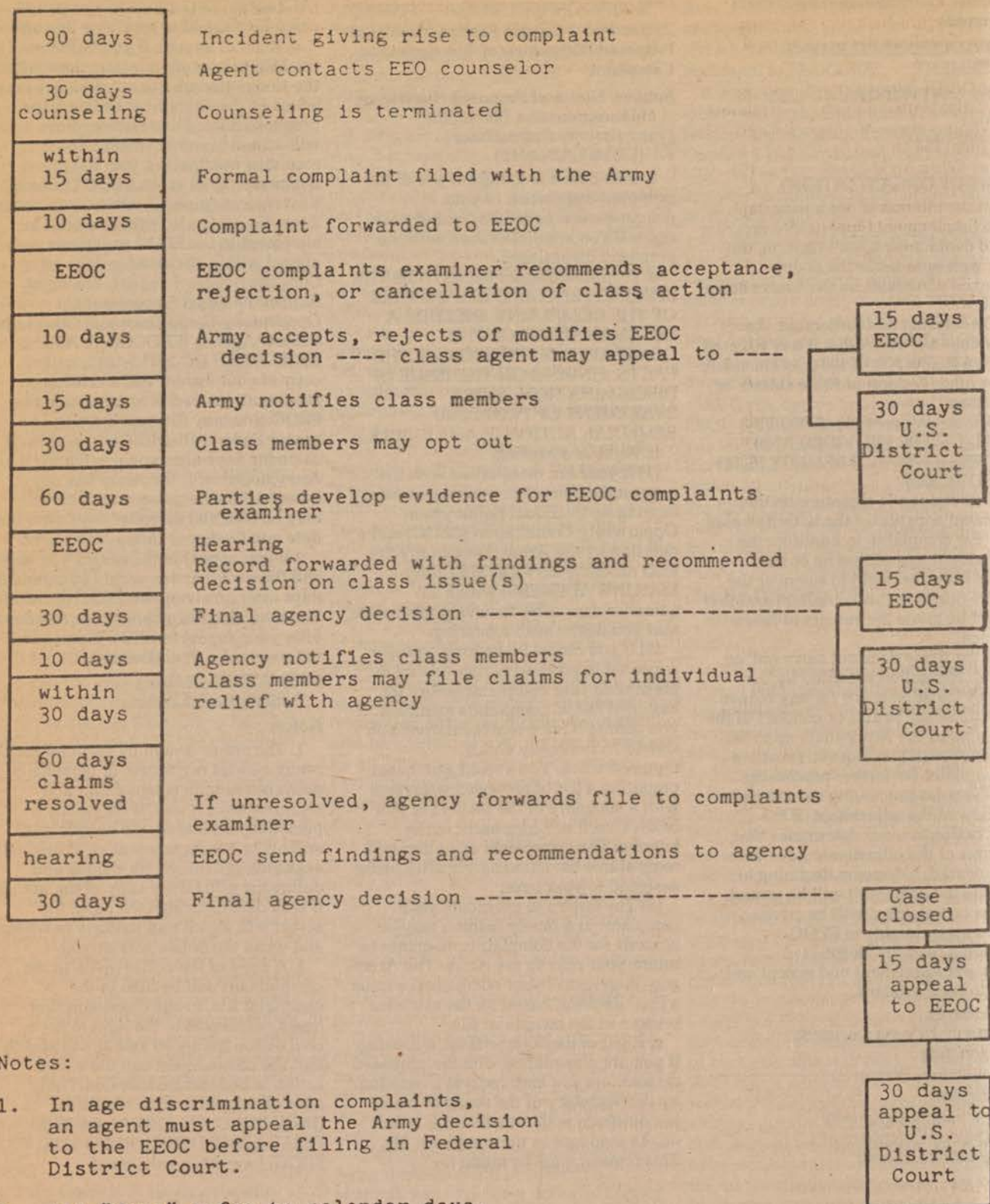
(SIGNATURE BLOCK)

Activity Commander.

Notes:

1. The notice is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative if any. If the notice is personally delivered, the complainant and his or her representative, if any, will acknowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.

2. A copy of the notice given to the complainant will be filed in the complaint file. In age discrimination cases, references to the right to file a civil action (paras 1d and 2) will specify that the complainant can file a civil action in Federal District Court only after all administrative remedies (INCLUDING AN APPEAL OF THE FINAL ARMY DECISION TO THE EEOC) have been exhausted.



Appendix K—Addresses and Geographic Jurisdiction of U.S. Army Civilian Appellate Review Regional Offices

USACARA investigators are assigned to investigate discrimination complaints from various regional offices located throughout the United States and Europe. When an EEO officer must obtain the services of a USACARA investigator in accord with paragraph 2-6 (individual complaints) he or she should contact the USACARA regional office with jurisdiction over the activity.

The USACARA regional offices are as follows:

USACARA: 5611 Columbia Pike, Room 434, Falls Church, VA 22041-5091, AV: 289-1423, (703) 756-1423

Geographic Jurisdiction: USACARA Headquarters.

USACARA-GC: Gorman Plaza Bldg., Suite 100, 8950 Old Annapolis Road, Columbia, MD 21045, (301) 995-0069, (202) 621-5170

Geographic Jurisdiction: Delaware, Maryland, Ohio, Virginia, District of Columbia, West Virginia.

USACARA-SE: Citizens Trust Bldg., Room 450, 75 Piedmont Ave., NE, Atlanta, GA 30303, AV: 797-5801, (404) 363-5801

Geographic Jurisdiction: Alabama, Florida, Georgia, Mississippi, South Carolina, Puerto Rico, Panama.

USACARA-SW: Federal Bldg, 1100 Commerce Street, Room 6B25, Dallas, TX 75242, (214) 767-0287

Geographic Jurisdiction: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

USACARA-MW: 405 S. Tucker Blvd., Room 4118, St. Louis, MO 63102-1132, AV: 693-0427, (314) 263-0427

Geographic Jurisdiction: Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New England, Tennessee, Wisconsin.

USACARA-WE: 801 "I" Street, Room 498, Sacramento, CA 95814, (916) 551-1073, FTS: 460-1073

Geographic Jurisdiction: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming.

USACARA-EU: APO NY 09102-0007, Heidelberg Military 8968/6351

Geographic Jurisdiction: Europe, Africa, North East, Atlantic Area, Middle East.

USACARA-PA: P.O. Box 50041, Honolulu, HI 96850-0001, (808) 546-8344

Geographic Jurisdiction: Hawaii, Far East, Pacific Area.

USACARA-NE: 766 Shrewsbury Ave., 3rd Floor, Tinton Falls, NJ 07724, (201) 741-1900

Geographic Jurisdiction: Pennsylvania, New Jersey, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York.

Appendix L—Sample format for Notice of Final Action

Section I

Format for the Final Army Decision Letter

1. Use

The notice of final Army decision is to be used under the following circumstances:

- If a discrimination complaint is rejected or canceled.
- If a proposed disposition is adopted after the complainant has failed to request a hearing or a decision by the Army without a hearing.
- If an activity rejects a written request to reinstate a complaint for further processing.

2. Delivery

The notice of final Army decision is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative, if any. If the notice is personally delivered, the complainant and his or her representative, if any, will acknowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.

3. Filing

A copy of this notice will be filed in the complaint file.

4. Preparation of the Notice of Final Army Decision

The notice of final Army decision should contain the notice itself and one of the three appeal rights.

Section II

Appeal Rights

5. Use

When a notice of final Army decision is issued by an activity it must contain an appropriate advisement of appellate rights. Use one of the following appellate rights as appropriate:

a. Use figure L-2 for complaints that allege discrimination based on any of the following:

- Race.
- Color.
- Religion.
- Sex.
- National origin.
- Physical or mental handicap.
- Reprisal.

b. Use figure L-3 for complaints that allege age discrimination as their only bases.

c. Use figure L-4 for complaints that allege age discrimination and any of the following:

- Race.
- Color.
- Religion.
- Sex.
- National origin.
- Physical or mental handicap.
- Reprisal.

Figure L-1

Subject: Notice of final Army decision, (Docket number).

From: (ACTIVITY COMMANDER).
To: (COMPLAINANT)

This is the Army's final decision on your equal employment opportunity complaint, dated (date). You alleged (specify type of discrimination) when (state the wrong allegedly suffered by the complainant.)

Based on my evaluation of your complainant and pursuant to my authority to issue a final decision in this matter in accord with paragraph 2-9g, AR 690-600, I have decided you (were or were not) subjected to prohibited discrimination in the matter at issue.

(Specify the reasons for the decision and the documents, or reports relied upon in reaching your decision.)

If you are dissatisfied with this final Army decision, you have the following appeal rights: (See figs L-2, L-3, or L-4.)

Figure L-2

Regular Appeal Rights

(for all allegations of discrimination other than age)

Appeal Rights

1. An appeal may be filed with the equal employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a Notice of Appeal at any time up to

20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the Notice of Appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a decision to award attorney fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in Section 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after:

(1) Receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process;

(2) Receipt of an arbitrator's award; or
(3) Receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day time limit within which a Notice of Appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the Appeal."

2. In lieu of an appeal to the Commission, a civil action may be filed in an appropriate United States District Court within 30 calendar days of receipt of the decision.

3. If an appeal to the Commission is filed, a civil action may be filed in a United States District Court within 30 calendar days of receipt of the Commission's final decision.

4. A civil action may also be filed any time after 180 calendar days of the date of initial appeal to the Commission, if a decision has not been rendered.

5. If a civil action is filed, and complainant does not have or is unable to obtain the services of a lawyer, the complainant may request the court to appoint a lawyer to represent him/her. In such circumstances as the court may deem just, the court may appoint a

lawyer and may authorize the commencement of the action without the payment of fees, costs, or security. Any such request must be made within the above referenced 30-day time limit for filing suit and in such form and manner as the court may require.

6. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(Signature block)

Figure L-3. Age Appeal rights

Age Only Appeal Rights

(for allegations of age discrimination)

Appeal Rights

1. An appeal may be filed with the Equal Employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR, 1613.221(e).

"Section 1613.233 Time limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by

the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a decision to award attorney fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.217(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day time limit within which a notice of appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the Appeal."

2. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

3. Attorney fees are not allowable for age discrimination complaints in the administrative process.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(Signature block)

Figure L-4. Combined appeal rights

Combined Appeal Rights

(for allegations of age plus race, color, religion, sex, national origin, physical or mental handicap, and/or reprisal)

Appeal Rights—Age Discrimination

1. An appeal may be filed with the Equal Employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney fees or costs. If a decision to award attorney's fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day time limit within which a notice of appeal must be filed will not be extended by the Commission unless,

based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the appeal."

2. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

3. Attorney fees are not allowable for age discrimination complaints in the administrative process.

Appeal Rights—Other

1. An appeal may be filed with the Equal Employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29 Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney fees or costs. If a decision to award attorney's

fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in § 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after:

(1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day limit within which a notice of appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercise its discretion to extend the time limit and accept the Appeal."

2. In lieu of an appeal to the Commission, a civil action may be filed in an appropriate United States District Court within 30 calendar days of receipt of the decision.

3. If an appeal to the Commission is filed, a civil action may be filed in a United States District Court within 30 calendar days of receipt of the Commission's final decision.

4. A civil action may also be filed any time after 180 calendar days of the date of initial appeal to the Commission, if a decision has not been rendered.

5. If a civil action is filed, and complainant does not have, or is unable to obtain the services of a lawyer, the complainant may request the court to appoint a lawyer to represent him/her. In such circumstances as the court may deem just, the court may appoint a lawyer and may authorize the commencement of the action without the payment of fees, costs or security. Any such request must be made within the above referenced 30-day time limit for filing suit and in such form and manner at the court may require.

6. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency

Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(Signature block)

Appendix M—Addresses and Geographic Jurisdiction of EEOC District Offices

Addresses and Geographic Jurisdictions of EEOC District Offices

C-1. EEOC complaints examiners are assigned to hear discrimination complaints from various district offices located throughout the United States. When an EEO officer must obtain the services of an EEOC complaints examiner to conduct a hearing in accord with paragraph 2-13 (individual complaints) or paragraph 3-6 (class action complaints), he or she should contact the EEOC district office with jurisdiction over the activity.

C-2. The EEOC district offices are as follows:

Atlantic District Office

District Director, EEOC, Citizens Trust Bldg., 10th Fl., 75 Piedmont Avenue, NE., Atlanta, Georgia 30335, (404) 212-6091, FTS 242-6091.

Geographic Jurisdiction: States of Georgia and South Carolina.

Baltimore District Office

District Director, EEOC, 109 Market Pl., Suite 4000, Baltimore, Maryland 21201, (301) 962-3932, FTS 922-3932.

Geographic Jurisdiction: States of Maryland and Virginia, District of Columbia, Europe.

Birmingham District Office

District Director, EEOC, 2121 Eighth Ave., North, Birmingham, Alabama 35203, (205) 254-1166, FTS 229-1166.

Geographic Jurisdiction: States of Alabama and Mississippi.

Charlotte District Office

District Director, EEOC, 1301 East Morehead Street, Charlotte, North Carolina 28204, (704) 371-6437, FTS 672-6455.

Geographic Jurisdiction: State of North Carolina.

Chicago District Office

District Director, EEOC, Federal Bldg., Room 930A, 536 S. Clark Street, Chicago, Illinois 60605, (312) 353-2712, FTS 353-2713.

Geographic Jurisdiction: State of Illinois, except counties of Alexander, Bond, Calhoun, Clinton, Greene, Jackson, Jersey, Macoupin, Madison, Monroe, Perry, Pulaski, Randolph, St. Clair, Union, and Washington.

Cleveland District Office

District Director, EEOC, One Playhouse Square, 1375 Euclid Avenue, Room 600, Cleveland, Ohio 44115, (216) 522-7425, FTS 942-4784.

Geographic Jurisdiction: State of Ohio.

Dallas District Office

District Director, EEOC, 8303 Elmbrook Dr., 2nd Floor, Dallas, Texas 75247, (214) 767-7015, FTS 729-7015.

Geographic Jurisdiction: States of Oklahoma and Texas counties of: Anderson, Archer, Armstrong, Bailey, Baylor, Bell, Borden, Bosque, Bowie, Briscoe, Brown, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Coke, Coleman, Collin, Collingsworth, Comanche, Cooke, Coryell, Cottle, Crath, Crosby, Dallas, Deafsmith, Delta, Denton, Dickens, Donley, Ellis, Falls, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Garza, Glasscock, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hemphill, Henderson, Hill, Hood, Hopkins, Howard, Houston, Hunt, Hutchinson, Irion, Jack, Jonson, Jones, Kaufman, Kent, King, Knox, Lamar, Lampasas, Leon, Limestone, Lipscomb, Madison, Marion, McLennan, Mehanan, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Noland, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Potter, Rains, Randall, Regean, Red River, Robertson, Rockwall, Runnels, Rusk, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Sterling, Stonewall, Swisher, Tarrant, Taylor, Throckmorton, Titus, Tom Green, Upshur, Van Zandt, Wheeler, Wichita, Wilbarger, Wise, Wood, Young, Andrews, Cochran, Crane, Culberson, Dawson, Ector, El Paso, Gaines, Hockley, Hudspeth, Loving, Lubbock, Lynn, Martin, Midland, Reeves, Terry, Upton, Ward, Winkler, Yoakum.

Denver District Office

District Director, EEOC, 1531 Stout Street, 6th Floor, Denver, Colorado 80202, (303) 844-2711, FTS 564-2771.

Geographic Jurisdiction: States of Colorado, Wyoming, Montana, North Dakota, South Dakota.

Detroit District Office

District Director, EEOC, McNamara Federal Building, 477 Michigan Avenue, Room 1540, Detroit, Michigan 48226, (313) 226-7636, FTS 226-7636.

Geographic Jurisdiction: State of Michigan.

Houston District Office

District Director, EEOC, 405 Main Street, 6th Floor, Houston, Texas 77002, (713) 226-5601, FTS 526-5601.

Geographic Jurisdiction: State of Texas, counties of: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walder, Waller, Warton.

Indianapolis District Office

District Director, EEOC, Federal Building, U.S. Courthouse, 46 E. Ohio Street, Room 456, Indianapolis, Indiana 46204, (317) 269-7212, FTS 331-7212.

Geographic Jurisdiction: States of Indiana and Kentucky.

Los Angeles District Office

District Director, EEOC, 3255 Wilshire Blvd., 9th Floor, Los Angeles, California 90010, (213) 798-3400, FTS 798-3400.

Geographic Jurisdiction: State of Nevada, and California counties of: Los Angeles, San Bernadino, Ventura, Kern, San Luis Obispo, Santa Barbara, Orange, Riverside, Imperial, San Diego.

Memphis District Office

District Director, EEOC, 1407 Union Avenue, Suite 502, Memphis, Tennessee 38104, (901) 521-2617, FTS 222-2617.

Geographic Jurisdiction: States of Tennessee and Arkansas.

Miami District Office

District Director, EEOC, Metro—Mall Building, 1 NE First Street, Miami, Florida 33132, (305) 350-4949, FTS 350-4491.

Geographic Jurisdiction: State of Florida, and Panama Canal Zone.

Milwaukee District Office

District Director, EEOC, 310 West Wisconsin Ave., Suite 800, Milwaukee, Wisconsin 53203, (414) 291-1111, FTS 362-1111.

Geographic Jurisdiction: States of Wisconsin, Minnesota, and Iowa.

New Orleans District Office

District Director, EEOC, F. Edward Herbert Federal Bldg., 600 South Street, New Orleans, Louisiana 70130, (504) 589-3842, FTS 682-3842.

Geographic Jurisdiction: State of Louisiana.

New York District Office

District Director, EEOC, 90 Church St., Room 501, New York, New York 10007, (804) 441-3470, FTS 827-3470.

Geographic Jurisdiction: States of New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and Puerto Rico and the Virgin Islands.

Philadelphia District Office

Acting District Director, EEOC, 127 N. 4th Street, Suite 300, Philadelphia, Pennsylvania 19106, (215) 597-7784, FTS 597-7784.

Geographic Jurisdiction: States of Pennsylvania, New Jersey, Delaware, and West Virginia.

Phoenix District Office

District Director, 135 North Second Ave., 4th Floor, Phoenix, Arizona 85003, (602) 261-3882, FTS 261-382.

Geographic Jurisdiction: States of Arizona, New Mexico, and Utah.

San Antonio District Office

District Director, EEOC, 727 East Durango, Suite B-601, San Antonio, Texas 78206, (512) 229-6051.

Geographic Jurisdiction: State of Texas, counties of: Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brazos, Brewster, Brooks, Bureson, Burnet, Caldwell, Calhoun, Cameron, Comal, Concho, Crockett, De Witt, Dimmit, Duval, Edwards, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hildalgo, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Lee, Live Oak, Llano, Mason, Maverick, Medina, Menard, McCulloch, McMullen, Neufes, Pecos, Presidio, Real, Refugio, San Antonio, San Saba, Scheleicher, Starr, Sutton, Terrell, Travis, Uvalde, Val Verde, Victoria, Washington, Webb, Willacy, Williamson, Wilson, Zapata, Zavala.

San Francisco District Office

District Director, EEOC, 10 United Nations Plaza, 4th Floor, San Francisco, California 94102, (415) 556-0260, FTS 556-0260.

Geographic Jurisdiction: State of Hawaii, Pacific Far East, and

California counties of: Colusa, Del Norte, Glenn, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solana, Sonoma, Trinity, Yolo, Fresno, Inyo, Kings, Madera, Alameda, Alpine, Amador, Calaveras, Contra Costa, Mono, San Joaquin, Stanislaus, Tuolumne, Butte, El Dorado, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Yung, Monterey, Santa Clara, Santa Cruz.

Seattle District Office

District Director, EEOC, Arcade Plaza Building, 7th Floor, Seattle, Washington 98101, (206) 442-0968, FTS 339-0968.

Geographic Jurisdiction: States of Washington, Oregon, Idaho, and Alaska.

St. Louis District Office

District Director, EEOC, Central West Plaza Bldg., 4th Floor, 625 N. Euclid Street, St. Louis, Missouri 63108, (314) 425-6585, FTS 279-6585.

Geographic Jurisdiction: States of Missouri, Kansas, and Illinois counties of: Alexander, Bond, Calhoun, Clinton, Greene, Jackson, Jersey, Macoupin, Madison, Monroe, Perry, Pulaski, Randolph, St. Clair, Union, Washington.

Appendix N—Sample advice—Mixed cases

N-1. The following advice should be attached verbatim to all Army decisions on personnel actions that are appealable to the MSPB where the employee has raised the issue of discrimination, either orally or in writing, during the processing of the personnel action but prior to the Army decision to effect that personnel action:

If you believe that this personnel action discriminated against you on the basis of your race, color, religion, sex, national origin, age, physical or mental handicap and/or reprisal, you may file a complaint of discrimination with the following person (activity EEO officer) or you may file an appeal with the Merit Systems Protection Board, as previously described. You may not, however, file both. Should you elect to file a complaint of discrimination, your complaint will be processed in accordance with Equal Employment Opportunity Commission regulations at section 1613.401, title 29, Code of Federal Regulations (29 CFR 1613.401.) Should you elect to file an appeal, your appeal will be processed in accordance with MSPB regulations at 5 CFR 1201.

N-2. The following advice is applicable to mixed case complaints and should be attached to all decisions where the Army rejects the complaint pursuant to 29 CFR 1613.405(a) (that is,

where the complainant has previously appealed the matter which forms the basis of the complaint to the MSPB):

Should you wish to proceed further with this matter, you must bring the allegations of discrimination contained in this rejected complaint to the attention of the MSPB as part of your appeal, pursuant to 5 CFR 1201.155.

N-3. The following advice is applicable to mixed case complaints filed on or after May 2, 1983, and should be attached to all decisions where the Army canceled the complaint pursuant to 29 CFR 1613.405(b) (that is, where the Army learns, after accepting a complaint, that the complainant previously filed an appeal on the same matter with the MSPB):

Should you wish to proceed further with this matter, you must bring the allegations of discrimination contained in this canceled complaint to the attention of the MSPB as part of your appeal to them, pursuant to 5 CFR 1201.155.

N-4. The following advice shall be made a part of all letters notifying the complainant of the acceptance of a mixed case complaint for processing pursuant to 29 CFR 1613.405(e):

Your complaint shall be processed in accordance with 29 CFR 1613.405(e) of Equal Employment Opportunity Commission (EEOC) regulations. If you do not receive a final agency decision on this complaint within 120 calendar days of the date of the filing of this complaint, you may appeal the matter to the Merit Systems Protection Board at any time thereafter, up to, but not later than, 1 year from the filing of the complaint, or you may file a civil action, as specified at 29 CFR 1613.417(g). If you are dissatisfied with the Army's eventual decision on this complaint, you may appeal that decision to the MSPB (not the EEOC) within 20 calendar days of receipt of the decision.

N-5. The following advice shall be made a part of the letter notifying the complainant of the proposed disposition of a mixed case complaint:

If you are dissatisfied with this proposed disposition, you are entitled to request a final decision (without a hearing by the EEOC) from the Secretary of the Army or his or her designee. If, thereafter, you should be dissatisfied with that final decision, you may appeal that decision to the MSPB within 20 calendar days of receipt of that decision. You may, in connection with any such appeal, request a hearing before the MSPB. In addition, if the Army's final decision has not been issued within 120 calendar days of the date on which you originally filed your complaint, you may appeal directly to the MSPB (not the EEOC) at the expiration of 120 calendar days, up to 1 year after filing the complaint. You may also file a civil action in Federal District Court within 30 calendar days of receipt of the final Army decision if you do not file an appeal with the MSPB.

N-6. The following advice shall be made a part of the letter notifying the complainant of the final agency decision on a mixed case complaint:

If you are dissatisfied with this decision you have the right to appeal the matter to the Merit Systems Protection Board (not the Equal Employment Opportunity Commission), within 20 calendar days of receipt. You also have the right to file a civil action in Federal District Court within 30 calendar days of receipt of this decision and as further described at 29 CFR Section 1613.417(a).

N-7. The following advice shall be made a part of the letter notifying the complainant of the cancellation pursuant to 29 CFR 1613.406(a)(2). This applies when a complaint on a proposal to take an appealable action is canceled because the complainant has subsequently filed an appeal with the MSPB on the agency decision to effect that proposal):

The allegation(s) of discrimination contained in this canceled complaint should be raised with the MSPB in connection with your pending appeal of the Army's decision to effect the action which formed the basis of this complaint.

Appendix O—Glossary

Section I

Abbreviations

ADO—alleged discriminating official
CIVPERCEN—U.S. Army Civilian Personnel Center
CPO—civilian personnel officer
DA—Department of the Army
EEO—equal employment opportunity
EEOC—Equal Employment Opportunity Commission
EEOCCRA—Equal Employment Opportunity Compliance and Complaints Review Agency
FLRA—Federal Labor Relations Authority
MACOM—major Army command
MSPB—Merit Systems Protection Board
NAF—nonappropriated fund
ROI—report of investigation
SJA—Staff Judge Advocate
USACARA—U.S. Army Civilian Appellate Review Agency

Section II

Terms

Activity Commander. The Army Commander who has delegated appointing authority for the civilian work force and has a CPO, a labor counselor, and an EEO officer available for advice.

Age discrimination. A claim of discrimination based on age by an individual who is at least 40 years of age at the time of the alleged discriminatory act.

Agent of the class. A member of a class who files the complaint and acts for the class during the processing of the class complaint. This person alleges that an Army personnel practice or policy discriminates against the class on the basis of race, color, religion, sex, national origin, age, physical or mental handicap, and/or reprisal.

Alleged discriminating official. A person identified or implicated by the complainant as responsible for the specific act or policy alleged to be discriminatory.

Allegation of reprisal. A claim of restraint, interference, coercion, discrimination, or retaliation in connection with presenting or processing a complaint. Reprisal claims can be brought by complainants, their representatives, witnesses, and personnel involved in the complaint process.

Arbitration. The final resolution of a grievance filed under a negotiated grievance procedure by an impartial person (an arbitrator) selected by labor and management. If allegations of discrimination are not excluded from a negotiated grievance procedure, they may be filed under such procedure and eventually may be decided through arbitration. An employee cannot individually invoke arbitration. Only labor and management may invoke arbitration to resolve a grievance.

Civilian personnel officer. The individual who is designated by the commander to administer the civilian personnel program.

Class. A group of Army employees, former Army employees, or applicants for Army employment, who allege that they have been, are being, or may be adversely affected by an Army personnel management policy or practice which the Army has authority to rescind or modify. The policy or practice must allegedly discriminate against the group based on their common race, color, religion, sex, national origin, age, physical or mental handicap, and/or reprisal.

Class complaint. A written discrimination complaint filed on behalf of a class by the agent of the class alleging that an Army personnel policy or practice discriminates against the class, and fulfills all of the following elements:

- The class is so numerous that a consolidated complaint of the class is impractical.
- There are questions of fact common to the class.
- The individual claim of discrimination of the agent of the class is typical of the claims of the class.
- The agent of the class, and his or her representative, if any, will fairly and

adequately protect the interests of the class.

Complainant. An Army employee, a former Army employee, or an applicant for Army employment who files a formal complaint of discrimination based on his or her race, color, religion, sex, national origin, age, physical or mental handicap, and/or reprisal.

Complaints examiner. An official assigned by the EEOC to hold hearings on formal complaints of discrimination and otherwise process individual and class complaints for the EEOC.

Director of Equal Employment Opportunity. The official designated by the Secretary of the Army, to administer the Army's EEO program in accordance with 29 CFR 1613.204.

Discrimination. Any act or failure to act, impermissibly based in whole or in part on a person's race, color, religion, national origin, sex, age, physical or mental handicap, and/or reprisal; that adversely affects privileges, benefits, working conditions; results in disparate treatment; or has a disparate impact on employees or applicants.

Equal Employment Opportunity Commission. The Federal agency responsible for issuing policy and regulations on the discrimination complaint system established by an agency in the Federal service. The EEOC holds hearings and makes findings and recommendations. The EEOC Office of Review and Appeals makes final decisions on discrimination complaints that have been appealed. It also reviews, upon request, decisions of negotiated grievances and Merit Systems Protection Board appeals if they include issues of discrimination.

Equal Employment Opportunity Compliance and Complaints Review Agency. The Army Organization responsible for the management of the Army's EEO complaint system. EEOCCRA also prepares the final Army decision in EEO complaints for the approval and signature of the Secretary of the Army or his or her designee.

EEO counselor. An Army employee (or an employee of a serviced Department of Defense activity), working under the direction of the EEO officer, who makes informal inquiries and seeks resolution of informal complaints. EEO counselors may be assigned to full-time or part-time EEO counselor positions or be given collateral EEO duties and responsibilities. (In the latter case, the EEO counseling duties are officially added to the counselor's position description). In performing the EEO functions, the counselor is guided by the EEO officer.

EEO officer. The individual designated by the Activity Commander to administer the activity's EEO Program. This includes managing and operating the complaint processing system, supervising EEO counselors, and advising the Activity Commander on the proposed disposition of complaints.

Federal Labor Relations Authority. The Federal agency responsible for deciding appeals of arbitration awards filed by a union or an agency regarding grievances filed under the negotiated grievance procedure.

Final Army decision. The decision, with or without a hearing, of the Army on a complaint of discrimination.

Formal individual discrimination complaint. A written complaint (ordinarily, a DA Form 2590-R) filed under this regulation, alleging that a specific act of discrimination or reprisal has taken place that is personal to the individual.

Handicapped person. a. A person who—

(1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities.

(2) Has a record of such an impairment.

(3) Is regarded as having such an impairment.

b. Physical or mental impairment.

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

- (a) Neurological.
- (b) Musculoskeletal.
- (c) Special sense organs.
- (d) Cardiovascular.
- (e) Reproductive.
- (f) Digestive.
- (g) Genito-urinary.
- (h) Hematologic and lymphatic.
- (i) Skin.
- (j) Endocrine.

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. Major life activities. Functions include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

d. Has a record of such an impairment. The person has a history of, or has been classified (or misclassified) as having, a mental or physical impairment that substantially limits one or more major life activities.

e. Is regarded as having such an impairment. This term is defined as one of the following:

(1) A physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation.

(2) A physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such impairment.

(3) None of the impairments defined in (2) above but is treated by an employer as having such an impairment.

Informal individual discrimination complaint. A matter of alleged discrimination which is brought to the attention of an EEO counselor by an aggrieved person before a formal discrimination complaint is filed. Contact with the EEO counselor may be oral or in writing.

Investigative report. In the Army, the report of investigation prepared by a USACARA investigator after the filing of a formal EEO complaint.

Labor counselor. An attorney working in the legal office servicing an activity who advises and represents the Activity Commander in labor matters, to include EEO complaints.

Merit Systems Protection Board. The Federal agency responsible for deciding appeals of personnel actions and mixed case complaints.

Mixed case complaint. A complaint involving an action appealable to MSPB which alleges that the action was taken because of discrimination. Actions appealable to the MSPB include removals, demotions, suspensions for more than 14 days, reductions-in-force, and furloughs for 30 days or less.

Mixed case appeals. An appeal filed with the MSPB which alleges that an Army action resulted, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, mental or physical handicap, age, and/or reprisal, or alleges that such Army action resulted in sex-based wage discrimination.

Negotiated grievance procedure. A grievance procedure contained in a collective bargaining agreement negotiated between the Army and a recognized labor organization. An allegation of discrimination may be processed under a negotiated grievance procedure as provided for by section 7121(d), title 5, United States Code. Unless specifically excluded by agreement between labor and management, an allegation of discrimination may be processed under a negotiated grievance procedure or this regulation, but not both.

Notice of proposed disposition. The notification from the commander to the complainant, after an informal adjustment attempt, of his or her findings and disposition of the complaint. The notice advises the complainant of the right to request a final Army decision, with or without a hearing, from the Department of the Army.

Qualified handicapped person. With respect to employment, a handicapped person who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of himself, herself, or others and who, depending upon the type of appointing authority being used, either—

a. Meets the experience or education requirements (which may include passing a written test) of the position in question.

b. Meets the criteria for appointment under one of the special appointing authorities for handicapped persons.

Remedial action. May include, but is not limited to, retroactive appointment or promotion, back pay, attorney fees and/or costs, cancellation of an unwarranted personnel action, or expunction from the Army's records of any reference to, or any record of, an unwarranted disciplinary action that is not a personnel action.

Reportable contact. A reportable contact is any contact with an EEO counselor by an aggrieved person who alleges discrimination on the bases of race, color, religion, sex, age, mental or physical handicap, national origin, or reprisal.

Sexual harassment. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when one or more of the following occurs:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

U.S. Army Civilian Appellate Review Agency. The Army organization that investigates and makes recommendations on formal EEO complaints filed against the Army.

Appendix P—Prescribed forms

BILLING CODE 3710-08-M

FORMAL COMPLAINT OF DISCRIMINATION For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army (Please print or type)	
PRIVACY ACT STATEMENT (5 U.S.C. 552a)	
AUTHORITY: Public Law 92-261	
PRINCIPAL PURPOSE: Formal filing of allegation of discrimination because of race, color, religion, sex, handicap, age, national origin or reprisal.	
ROUTINE USES: This form and the information on this form may be used (a) as a data source for complaint information for production of summary descriptive statistics and analytical studies of complaints processing and resolution efforts and may also be used to respond to general requests for information under the Freedom of Information Act, (b) to respond to requests from legitimate outside individuals or agencies (for example: Members of Congress, The White House, and the Equal Employment Opportunity Commission) regarding the status of the complaint or appeal and, (c) to adjudicate complaint or appeal.	
DISCLOSURE: Voluntary; however, failure to complete all appropriate portions of this form may lead to rejection of complaint on the basis of inadequate data on which to determine if complaint is acceptable.	
1. NAME OF COMPLAINANT (Last, First, Middle)	2. COMPLAINANT'S TELEPHONE NUMBERS WORK HOME
COMPLAINANT'S SSN	
3. COMPLAINANT'S ADDRESS (Include City, State, ZIP Code)	4. IS COMPLAINANT BEING REPRESENTED YES NO IF YES, NAME OF REPRESENTATIVE
5. NAME OF ARMY ORGANIZATION YOU BELIEVE DISCRIMINATED AGAINST YOU	6. ADDRESS OF ALLEGED DISCRIMINATION ORGANIZATION (Include City, State, ZIP Code)
7. MAJOR ARMY COMMAND OF ACTIVITY YOU BELIEVE DISCRIMINATED AGAINST YOU	8. DATE ON WHICH MOST RECENT ALLEGED DISCRIMINATION OCCURRED
9. ARE YOU WORKING FOR THE FEDERAL GOVERNMENT / / YES (Answer Items 10, 11 and 12) / / NO (Skip to Item 13)	10. NAME OF AGENCY WHERE YOU ARE CURRENTLY EMPLOYED
11. ADDRESS OF YOUR CURRENT EMPLOYER (Include City, State, ZIP Code)	12. TITLE AND GRADE OF YOUR CURRENT JOB
13. CHECK BELOW WHY YOU BELIEVE YOU WERE DISCRIMINATED AGAINST, BECAUSE OF YOUR / / RACE. IF SO, STATE YOUR RACE / / SEX. IF SO, STATE YOUR SEX / / COLOR. IF SO, STATE YOUR COLOR / / RELIGION. IF SO, STATE YOUR RELIGION / / HANDICAP. MENTAL/PHYSICAL (CIRCLE ONE) / / AGE. IF SO, STATE YOUR AGE / / NATIONAL ORIGIN. IF SO, STATE YOUR NATIONAL ORIGIN / / REPRISAL	
14. I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR (See reverse) / / YES / / NO	15. NAME OF COUNSELOR
16. DATE OF FINAL INTERVIEW	
17. EXPLAIN SPECIFICALLY HOW YOU WERE DISCRIMINATED AGAINST, THAT IS, TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS, BECAUSE OF YOUR: RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MENTAL OR PHYSICAL HANDICAP, OR REPRISAL. (If your complaint involves more than one basis for your dissatisfaction, list and number each such allegation separately and furnish specific, factual information in support of each. You may continue your answer on another sheet of paper if you need more space.) ALLEGATION NUMBER 1:	
18. LIST BELOW THE NAMES OF YOUR WITNESSES AND WHAT FACTUAL INFORMATION EACH WILL BE EXPECTED TO CONTRIBUTE THROUGH HIS/HER TESTIMONY TO THE INVESTIGATION OF YOUR COMPLAINT (Include in REMARKS)	
19. WHAT SPECIFIC CORRECTIVE ACTION DO YOU WANT TAKEN ON YOUR COMPLAINT (If more than one allegation is being made, state overall corrective action desired and the specific corrective action desired for each separate allegation)	

20. HAVE THE MATTERS LISTED IN ITEM 17 BEEN APPEALED TO THE MERIT SYSTEM PROTECTION BOARD OR FILED UNDER A NEGOTIATED GRIEVANCE PROCEDURE: IF YES, EXPLAIN

REMARKS (Continue on white bond paper if necessary)

21. DATE THIS COMPLAINT FORM WAS SIGNED BY THE COMPLAINANT (Month, Day, and Year)

22. SIGNATURE OF COMPLAINANT

TO BE COMPLETED BY THE ORGANIZATION'S EQUAL EMPLOYMENT OPPORTUNITY OFFICER (EEOO)

I CERTIFY THAT (1) THE COMPLAINANT HAS REAFFIRMED THIS COMPLAINT IN MY PRESENCE AND HAS STATED THAT THE FACTS CONTAINED THEREIN ARE TRUE TO THE BEST OF HIS/HER KNOWLEDGE, (2) A DETERMINED EFFORT AT INFORMAL RESOLUTION OF THIS COMPLAINT FAILED TO PRODUCE A SOLUTION SATISFACTORY TO THE COMPLAINANT AND, (3) LOCAL MANAGEMENT IN THE APPROPRIATE CHAIN OF COMMAND HAS BEEN INFORMED CONCERNING THE COMPLAINT AND ITS SUBMISSION IN THE ABOVE FORMAT:

22. SIGNATURE OF EEOO

23. TYPED NAME, TITLE, AND ADDRESS OF EEOO

24. DATE COMPLAINT FILED WITH EEOO

25. TELEPHONE NO. OF EEOO PROCESSING COMPLAINT

26. SUBJECT MATTER CODES:

THE MATTER(S) GIVING RISE TO THE COMPLAINT WILL BE CODED USING ONE OR MORE OF THE FOLLOWING CODES: APPOINTMENT (1); PROMOTION (2); REASSIGNMENT (3); SEPARATION/TERMINATION (4); SUSPENSION (5); REPRIMAND (6); EVALUATION/APPRaisal (7); DUTY HOURS (8); TRAINING (9); TIME AND ATTENDANCE (10); RETIREMENT (11); ASSIGNMENT OF DUTIES (12); EXAM/TEST (13); WORK CONDITIONS (14); HARASSMENT (15); SEXUAL HARASSMENT (16); REPRISAL (17); PAY, INCLUDING OVERTIME (18); CONVERSION TO FULL TIME/CAREER CONDITIONAL (19); REINSTATEMENT (20); AWARDS (21); OR, OTHER (22) (specify).

INFORMATION CONCERNING THE PROCESSING OF YOUR COMPLAINT OF DISCRIMINATION. THIS FORM WILL BE USED ONLY IF YOU, AS AN ARMY EMPLOYEE OR AS AN APPLICANT FOR FEDERAL EMPLOYMENT, THINK YOU HAVE BEEN TREATED UNFAIRLY BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MENTAL OR PHYSICAL HANDICAP, OR REPRISAL. IF YOU HAVE ANY QUESTIONS CONCERNING THE COMPLETION OF THIS FORM, YOU MAY CONTACT THE EQUAL EMPLOYMENT OPPORTUNITY OFFICER (EEOO) AT YOUR ACTIVITY.

YOUR WRITTEN FORMAL COMPLAINT MUST BE FILED WITHIN 15 CALENDAR DAYS OF THE DATE OF YOUR FINAL INTERVIEW WITH THE EEO COUNSELOR. IF THE MATTER HAS NOT BEEN RESOLVED TO YOUR SATISFACTION WITHIN 21 CALENDAR DAYS OF YOUR FIRST INTERVIEW WITH THE EEO COUNSELOR AND THE FINAL COUNSELING INTERVIEW HAS NOT BEEN COMPLETED WITHIN THAT TIME, YOU HAVE A RIGHT TO FILE A COMPLAINT AT ANY TIME THEREAFTER UP TO 15 DAYS AFTER THE FINAL INTERVIEW. YOUR WRITTEN FORMAL COMPLAINT MUST BE FILED WITHIN 15 CALENDAR DAYS OF THE DATE OF YOUR FINAL INTERVIEW WITH THE EEO COUNSELOR. THIS TIME LIMIT MAY BE EXTENDED IF YOU CAN GIVE A GOOD REASON FOR NOT SUBMITTING THE COMPLAINT WITHIN THE 15 CALENDAR DAY TIME LIMIT.

YOU MAY HAVE A REPRESENTATIVE AT ALL STAGES OF THE PROCESSING OF YOUR COMPLAINT. YOU OR YOUR REPRESENTATIVE SHOULD PERSONALLY FILE YOUR COMPLAINT WITH THE EEOO OF YOUR ACTIVITY.

IF YOUR COMPLAINT IS ACCEPTED, YOU WILL HAVE AN OPPORTUNITY TO TALK WITH AN INVESTIGATOR FROM THE U.S. ARMY CIVILIAN APPELLATE REVIEW AGENCY AND TO GIVE HIM ALL THE FACTS YOU HAVE WHICH YOU BELIEVE WILL SUPPORT YOUR COMPLAINT. IF YOUR COMPLAINT IS REJECTED, YOU WILL BE ADVISED IN WRITING OF THE REASON(S) AND ADVISED OF THE RIGHT TO APPEAL. UPON COMPLETION OF THE INVESTIGATION OF YOUR COMPLAINT, YOU WILL RECEIVE A COPY OF THE INVESTIGATOR'S REPORT AND AN ATTEMPT WILL BE MADE TO RESOLVE THE COMPLAINT THEN.

IF YOUR COMPLAINT CANNOT BE SETTLED INFORMALLY ON THE BASIS OF THE INVESTIGATION, YOU MAY REQUEST A REVIEW OF YOUR RECORD BY THE DEPARTMENT OF THE ARMY DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY. OR YOU MAY REQUEST A HEARING AT THIS STAGE. IF A HEARING IS REQUESTED, IT WILL BE CONDUCTED BY A COMPLAINTS EXAMINER DESIGNATED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. THE FINDINGS, ANALYSIS, AND RECOMMENDATION WILL BE FORWARDED TO THE DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY FOR DECISION. YOU WILL BE ADVISED BY THE DIRECTOR OF THE DECISION AND PROVIDED A COPY OF THE CASE RECORD.

IF YOU ARE NOT SATISFIED WITH THE DIRECTOR'S DECISION, YOU WILL HAVE THE RIGHT TO APPEAL TO THE OFFICE OF REVIEW AND APPEALS OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 2401 E STREET, N.W., WASHINGTON DC, 20507 WITHIN 20 CALENDAR DAYS AFTER RECEIPT OF THE DECISION.

PLEASE BE SPECIFIC IN STATING THE FACTS CONCERNING YOUR COMPLAINT IN ITEMS 14 THROUGH 20 ON THE REVERSE OF THIS FORM.

PRECOMPLAINT COUNSELING DATA SHEET						DATE	
For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army							
INSTRUCTIONS						MACOM	
The EEO Counselor will complete all items except those which will be completed by the EEO Officer, which are: (1) Identifying the MACOM of the activity against which the inquiry was raised and, (2) reporting the amount of backpay awarded or to be awarded, if any.							
BASIS OF COMPLAINT							
For the appropriate box(es) below, enter the applicable code as follows:							
CATEGORY	SPECIFIC	CODE	CATEGORY	SPECIFIC	CODE		
R/C (RACE/COLOR)	Black	1	Rgn (Religion)	Enter the religion	X		
	Hispanic	2	Sex	Female	F		
	American Indian	3		Male	M		
	Oriental	4	Age	Enter the age	—		
	Aleut (Alaska only)	5	Hdcp (Handicap)	Mental	M		
	Eskimo (Alaska only)	6		Physical	P		
	White	7	Nat'l Orgn	Enter national origin	X		
	Non-Hispanic (P.R. only)	8	Reprisal	Reprisal	X		
	None of the above	9					
RACE	COLOR	RELIGION	HANDICAP	SEX	NATIONAL ORIGIN	AGE	REPRISAL
MATTER GIVING RISE TO THE COMPLAINT							
The matter(s) giving rise to the complaint will be coded using one or more of the following codes: APPOINTMENT (1); PROMOTION (2); REASSIGNMENT (3); SEPARATION/TERMINATION (4); SUSPENSION (5); REPRIMAND (6); EVALUATION/APPRaisal (7); DUTY HOURS (8); TRAINING (9); TIME AND ATTENDANCE (10); RETIREMENT (11); ASSIGNMENT OF DUTIES (12); EXAM/TEST (13); WORK CONDITIONS (14); HARASSMENT (15); SEXUAL HARASSMENT (16); REPRISAL (17); PAY, INCLUDING OVERTIME (18); CONVERSION TO FULL TIME/CAREER CONDITIONAL (19); REINSTATEMENT (20); AWARDS (21) AND/OR OTHER (22) (specify)							
ENTER CODE(S) FOR MATTER(S) GIVING RISE TO THE COMPLAINT							
DATE OF ALLEGED INCIDENT		DATE COUNSELOR CONTACTED			DATE OF 21-DAY LETTER		
DATE OF FINAL INTERVIEW		WAS COMPLAINT RESOLVED YES / / NO / /					
CORRECTIVE ACTION TAKEN (Check appropriate box)							
A-1 PERFORMANCE RE-EVALUATED		B-2 ADVERSE MATERIAL REMOVED FROM OFF		C-1 CEASE PRACTICE COMPLAINED OF			
D-2 AGENCY IMPROVEMENTS PERSONNEL PRACTICES		D-3 AGENCY IMPROVEMENT WORKING COND/PERS PRAC		E-1 RETROACTIVE HIRE WITH BACKPAY			
E-2 RETROACTIVE HIRE WITHOUT BACKPAY		E-3 NON-RETROACTIVE HIRE		E-4 NON-RETROACTIVE PROMOTION			
F-1 REASSIGNMENT - SAME DUTY STATION		F-2 REASSIGNMENT DIFFERENT DUTY STATION					
G-1 RETROACTIVE PROMOTION WITH BACKPAY		G-2 RETROACTIVE PROMOTION WITHOUT BACKPAY		H-1 ADVERSE ACTION RESCINDED WITH BACKPAY			
H-2 ADVERSE ACTION RESCINDED WITHOUT BACKPAY		J-1 PRIORITY CONSIDERATION		K-1 REINSTATEMENT WITH BACKPAY			
K-2 REINSTATEMENT WITHOUT BACKPAY		AMOUNT OF BACKPAY AWARDED		OTHER (Explain)			
REMARKS (Continue on white bond paper if necessary)							
SIGNATURE OF EEO OFFICER							

INDIVIDUAL COMPLAINT DATA SHEET			EEOCRA DOCKET NO.	
For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army				
NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION	
INSTRUCTIONS Items 1 through 16c will be filled out by both the EEO Counselor and the EEO Officer. Items 16a through 39d will be filled out by the EEO Officer only. When an item is not applicable to the particular EEO complaint being reviewed, the proper square will be marked with a diagonal line. All references are to paragraphs of AR 690-600, Equal Employment Opportunity Discrimination Complaints.			EEO COUNSELOR YES NO	
EEO OFFICER YES NO				
SECTION A. PRECOMPLAINT PROCESSING (PARA 2-2)				
1. DID THE AGGRIEVED PERSON CONTACT THE EEO COUNSELOR WITHIN 30 DAYS OF THE ALLEGED DISCRIMINATION, EFFECTIVE DATE OF THE PERSONNEL ACTION, OR THE DATE THAT THE AGGRIEVED PERSON BECAME AWARE OR REASONABLY SHOULD HAVE BECOME AWARE OF THE DISCRIMINATORY EVENT OR PERSONNEL ACTION				
2. WAS THE AGGRIEVED PERSON ADVISED OF THE RIGHT TO HAVE A REPRESENTATIVE ACCOMPANY HIM/HER AT ALL STAGES OF THE COMPLAINT PROCESS				
3. WAS THE AGGRIEVED PERSON INFORMED OF ALTERNATE PROCEDURES FOR FILING ALLEGATIONS OF DISCRIMINATION				
4. HAS THE AGGRIEVED PERSON FILED AN APPEAL WITH THE MSPB ON THE SAME ISSUE				
5. HAS THE AGGRIEVED PERSON FILED A WRITTEN GRIEVANCE UNDER A NEGOTIATED GRIEVANCE PROCEDURE ON THE SAME ISSUE				
6. WAS THE AGGRIEVED PERSON'S NAME REVEALED TO ANYONE WITHOUT WRITTEN PERMISSION IN THE PRECOMPLAINT PROCESSING? IF YES, EXPLAIN IN REMARKS				
7a. DID THE EEO COUNSELOR DEFINE AND RECORD THE SPECIFIC DATE AND FACTS THAT FORM THE BASIS OF THE COMPLAINT				
b. WAS THIS DOCUMENT REVIEWED BY THE AGGRIEVED PERSON				
8. DID THE AGGRIEVED PERSON NAME AN ADO				
9. DID THE EEO COUNSELOR INQUIRE INTO THE SPECIFIC INCIDENTS AND ACTIONS IDENTIFIED BY THE AGGRIEVED PERSON				
10. DID THE EEO COUNSELOR INTERVIEW THE ADO, IF NAMED				
11. DID THE EEO COUNSELOR ADVISE THE ADO OF HIS/HER RIGHTS AND THE NATURE OF THE ACCUSATION				
12. IS THE EEO COUNSELOR'S REPORT TABBED IN THE COMPLAINT FILE				
13. WAS AN ATTEMPT MADE AT INFORMAL RESOLUTION				
14a. WAS THE FINAL INTERVIEW CONDUCTED WITHIN 21 DAYS AFTER THE MATTER WAS FIRST CALLED TO THE EEO COUNSELOR'S ATTENTION				
b. IF NOT, WAS THE AGGRIEVED PERSON INFORMED IN WRITING ON THE 21ST DAY OF THE RIGHT TO FILE A FORMAL COMPLAINT				
c. IS THE NOTICE TABBED IN THE COMPLAINT FILE				
15. AT THE FINAL INTERVIEW WAS THE AGGRIEVED PERSON INFORMED IN WRITING OF THE FOLLOWING				
a. THE RIGHT TO FILE A FORMAL COMPLAINT				
b. THE REQUIREMENT THAT A FORMAL COMPLAINT SPECIFICALLY DESCRIBE THE ACTS OF ALLEGED DISCRIMINATION				
c. THE REQUIREMENT THAT ONLY ISSUES DISCUSSED WITH THE EEO COUNSELOR BE CONSIDERED IN A FORMAL COMPLAINT				
SECTION B. FORMAL COMPLAINT PROCESSING (PARA 2-3 TO 2-13)				
(Items 16a through 39d will be filled out by the EEO Officer only.)				
16a. DID THE COMPLAINANT FILE AND SIGN A FORMAL WRITTEN COMPLAINT ON DA FORM 2590-R				
b. DID THE EEO OFFICER CODE DA FORM 2590-R				
17a. WAS THE COMPLAINT FILED WITH THE LOCAL EEO OFFICER				
b. IF NOT, WAS IT FORWARDED IMMEDIATELY TO THE RESPONSIBLE EEO OFFICER				
18. DID THE EEO OFFICER ACKNOWLEDGE RECEIPT OF THE COMPLAINT IN WRITING				
19. WAS THE EEO OFFICER IDENTIFIED AS AN ADO IN THE COMPLAINT				
20. WAS THE ACTIVITY COMMANDER IDENTIFIED AS AN ADO IN THE COMPLAINT				
21. WAS THE COMPLAINT ACCEPTED BY THE EEO OFFICER IN WHOLE OR IN PART				

22a. DID THE EEO OFFICER SEND WRITTEN NOTICE TO THE COMPLAINANT OF HIS/HER DECISION TO ACCEPT, REJECT, OR CANCEL THE COMPLAINT		
b. IS THE DECISION LETTER TABBED IN THE COMPLAINT FILE		
c. DOES THE DECISION SPECIFY WHICH ISSUES WERE ACCEPTED		
d. DOES THE DECISION LETTER ADVISE THE COMPLAINANT OF THE RIGHT TO APPEAL THE REJECTIONS OR CANCELLATIONS		
23a. WAS THE COMPLAINT FILE SENT TO AN APPROPRIATE USACARA REGIONAL OFFICE REQUESTING ASSIGNMENT OF AN INVESTIGATOR		
b. IS THE REQUEST LETTER TABBED IN THE COMPLAINT FILE		
24. WAS AN INVESTIGATOR FROM USACARA ASSIGNED TO THE COMPLAINT		
25. WAS AN INVESTIGATION CONDUCTED		
26. WERE ALL ALLEGATIONS ADEQUATELY INVESTIGATED BY USACARA		
27. WAS THE ADO GIVEN FULL OPPORTUNITY TO REVIEW DOCUMENTS AND RESPOND TO ALL ALLEGATIONS MADE AGAINST HIM/HER		
28. WAS THE INVESTIGATOR UNDER THE RATING CONTROL OF ANY PARTIES TO THE COMPLAINT		
29. WAS THE ROI SENT TO THE EEO OFFICER AND THE ACTIVITY COMMANDER OR A DESIGNEE WITHIN 45 DAYS AFTER ASSIGNMENT		
30. DOES THE INVESTIGATION INCLUDE THE INVESTIGATOR'S FINDINGS AND RECOMMENDATION		
31. WAS THE ROI SENT BY THE EEO OFFICER TO THE COMPLAINANT AND REPRESENTATIVE WITH AN OFFER TO MEET AND DISCUSS AN INFORMAL ADJUSTMENT TO THE COMPLAINT		
32a. DID THE CONCERNED PARTIES AGREE ON THE ADJUSTMENT		
b. IF SO, WERE THE TERMS OF THE ADJUSTMENT FIRST COORDINATED WITH THE LABOR COUNSELOR AND CPO		
c. IF SO, WAS THE ADJUSTMENT SIGNED BY THE COMPLAINANT AND THE ACTIVITY COMMANDER		
d. DID THE ADJUSTMENT INCLUDE AN AWARD OF ATTORNEY'S FEES AND/OR COSTS		
e. IS THE ADJUSTMENT TABBED IN THE COMPLAINT FILE		
33. WAS NOTICE OF PROPOSED DISPOSITION GIVEN TO THE COMPLAINANT AND THE ADO		
34. WAS THE COMPLAINANT INFORMED OF THE RIGHT TO REQUEST A HEARING OR AN ARMY DECISION WITHOUT A HEARING		
35. WAS THE COMPLAINANT INFORMED HE/SHE HAD 15 CALENDAR DAYS IN WHICH TO REQUEST A HEARING OR AN ARMY DECISION WITHOUT A HEARING		
36. IS THE NOTICE OF PROPOSED DISPOSITION TABBED IN THE COMPLAINT FILE		
37a. DID THE COMPLAINANT RESPOND TO THE NOTICE OF PROPOSED DISPOSITION WITHIN 15 CALENDAR DAYS		
b. IF NOT, DID THE ACTIVITY COMMANDER ADOPT THE PROPOSED DISPOSITION AS THE FINAL ARMY DECISION AND NOTIFY THE COMPLAINANT ACCORDINGLY		
38a. IF THE COMPLAINANT REQUESTED AN ARMY DECISION WITHOUT A HEARING, DID THE EEO OFFICER SEND THE ORIGINAL AND ONE COPY OF THE COMPLAINT FILE TO EEOCCRA		
b. IS THE REQUEST TABBED IN THE COMPLAINT FILE		
39. IF THE COMPLAINANT REQUESTED A HEARING		
a. DID THE EEO OFFICER REQUEST ASSIGNMENT OF AN EEOC COMPLAINTS EXAMINER		
b. IS A COPY OF THE REQUEST TO EEOC TABBED IN THE COMPLAINT FILE		
c. DID THE EEO OFFICER ASK THE EEOC COMPLAINTS EXAMINER TO SEND THE COMPLETE FILE AND FOUR COPIES OF THE FINAL REPORT AND HEARING TRANSCRIPT TO EEOCCRA		
d. WAS THE HEARING RECORDED		
REMARKS (Continue on white bond paper if necessary)		
DATE	SIGNATURE OF EEO COUNSELOR	
DATE	SIGNATURE OF EEO OFFICER	
FINAL ARMY ACTION		
DATE	ACTION	
SIGNATURE OF EEOCCRA REVIEWING OFFICIAL		

CLASS COMPLAINT DATA SHEET			EEOCRA DOCKET NO.			
For use of this form, see AR 690-600. the proponent agency is the Office of the Secretary of the Army						
NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION			
INSTRUCTIONS Items 1 through 12d will be filled out by both the EEO Counselor and the EEO Officer. Items 13a through 24 will be filled out by the EEO Officer only. When an item is not applicable to the particular EEO complaint being reviewed, the proper square will be marked with a diagonal line. All references are to paragraphs of AR 690-600, Equal Employment Opportunity Discrimination Complaints.			EEO COUNSELOR		EEO OFFICER	
			YES	NO	YES	NO
SECTION A. PRECOMPLAINT PROCESSING (PARA 3-2)						
1. DID THE CLASS AGENT CONTACT A DESIGNATED EEO COUNSELOR WITHIN 90 DAYS OF THE ALLEGED DISCRIMINATION, THE EFFECTIVE DATE OF THE PERSONNEL ACTION, OR THE DATE THAT THE AGGRIEVED PERSON BECAME AWARE OR REASONABLY SHOULD HAVE BECOME AWARE OF THE DISCRIMINATORY EVENT OR PERSONNEL ACTION						
2. WAS THE CLASS AGENT ADVISED IN WRITING OF						
a. DISCRIMINATION COMPLAINT PROCEDURES						
b. THE CRITERIA FOR THE ACCEPTANCE OF CLASS COMPLAINTS						
c. THE RIGHT TO BE REPRESENTED THROUGHOUT THE PRECOMPLAINT AND COMPLAINT PROCESS						
d. THE RIGHT TO NOT HAVE HIS/HER NAME REVEALED ONLY DURING THE PRECOMPLAINT PROCESS						
3. WAS THE DIRECTOR OF EEOCRA AND OTJAG NOTIFIED WITHIN 5 CALENDAR DAYS AFTER START OF THE PRECOMPLAINT PROCESS BY THE EEO OFFICER						
4a. DID THE EEO COUNSELOR DEFINE AND RECORD THE SPECIFIC DATES AND FACTS THAT FORM THE BASIS OF THE COMPLAINT						
b. WAS THIS DOCUMENT REVIEWED BY THE CLASS AGENT						
5. WAS AN ADO IDENTIFIED						
6. DID THE COUNSELOR INQUIRE INTO THE SPECIFIC INCIDENTS AND ACTIONS IDENTIFIED BY THE CLASS AGENT						
7. DID THE COUNSELOR INTERVIEW THE ADO, IF NAMED						
8. DID THE COUNSELOR ADVISE THE ADO OF HIS/HER RIGHTS AND THE NATURE OF THE ACCUSATION						
9. IS THE COUNSELOR'S REPORT TABBED IN THE COMPLAINT FILE						
10. WAS AN ATTEMPT AT INFORMAL RESOLUTION MADE						
11a. WAS A FINAL INTERVIEW CONDUCTED WITHIN 30 CALENDAR DAYS AFTER THE MATTER WAS FIRST CALLED TO THE COUNSELOR'S ATTENTION						
b. IS THE NOTICE OF FINAL INTERVIEW TABBED IN THE COMPLAINT FILE						
12. AT THE FINAL INTERVIEW, WAS THE CLASS AGENT INFORMED IN WRITING OF						
a. THE RIGHT TO FILE A FORMAL COMPLAINT WITHIN THE NEXT 15 CALENDAR DAYS						
b. THE REQUIREMENT THAT THE CLASS AGENT IMMEDIATELY INFORM THE EEO OFFICER IF HE/SHE RETAINS A LEGAL REPRESENTATIVE						
c. THE REQUIREMENT THAT A FORMAL COMPLAINT SPECIFICALLY DESCRIBES THE ACTS OF THE ALLEGED DISCRIMINATION						
d. THE REQUIREMENT THAT ONLY ISSUES DISCUSSED WITH THE EEO COUNSELOR BE CONSIDERED						
SECTION B. FORMAL COMPLAINT PROCESSING (PARA 3-3 TO 3-11) (Items 13a through 24 will be filled out by the EEO Officer only)						
13a. DID THE CLASS AGENT FILE A FORMAL CLASS COMPLAINT ON DA FORM 2590-R						
b. IS THE CLASS COMPLAINT SIGNED BY THE AGENT AND HIS/HER REPRESENTATIVE, IF ANY						
c. IS THE CLASS COMPLAINT TABBED IN THE COMPLAINT FILE						
14. WAS THE COMPLAINT FILED WITHIN 15 CALENDAR DAYS AFTER THE CLASS AGENT RECEIVED NOTICE OF THE FINAL INTERVIEW						
15. DOES THE COMPLAINT SPECIFICALLY DESCRIBE IN DETAIL THE POLICY OR PRACTICE THAT GAVE RISE TO THE COMPLAINT AND THE RESULTING PERSONNEL ACTION OR MATTER THAT HARMED THE AGENT						
16. IF THE CLASS AGENT HAS A REPRESENTATIVE, IS THE DESIGNATION IN WRITING AND MADE PART OF THE COMPLAINT FILE						

17. WAS THE COMPLAINT SENT TO EEOC FOR RECOMMENDATIONS ON ACCEPTANCE OR REJECTION WITHIN 10 DAYS AFTER RECEIPT		
18a. WAS THE COMPLAINT ACCEPTED OR REJECTED WITHIN 10 DAYS AFTER RECEIPT OF EEOC'S RECOMMENDED ACCEPTANCE OR REJECTION		
b. IS THE ACCEPTANCE/REJECTION TABBED IN THE COMPLAINT FILE		
19. DID THE EEO OFFICER MAKE A REASONABLE EFFORT TO NOTIFY ALL CLASS MEMBERS OF THE EXISTENCE OF A CLASS COMPLAINT WITHIN 15 DAYS AFTER ITS ACCEPTANCE		
20. DID THE NOTICE TO CLASS MEMBERS INFORM THEM OF THEIR RIGHT TO REMOVE THEMSELVES FROM THE CLASS WITHIN 30 DAYS AFTER RECEIPT OF NOTICE		
21a. WAS A LABOR COUNSELOR DESIGNATED BY THE ACTIVITY COMMANDER		
b. IS THE APPOINTMENT TABBED IN THE COMPLAINT FILE		
22. WAS THERE ANY ATTEMPT AT INFORMAL ADJUSTMENT OR SETTLEMENT		
23a. WAS THERE AN INFORMAL ADJUSTMENT REACHED BETWEEN THE PARTIES		
b. IF SO, WERE THE TERMS OF THE RESOLUTION PUT IN WRITING AND SIGNED BY THE PARTIES		
c. DOES THE RESOLUTION INCLUDE ANY CORRECTIVE ACTION AGREED UPON		
d. HAS A COPY OF THE RESOLUTION BEEN GIVEN TO THE AGENT OF THE PARTIES		
e. WAS NOTICE OF THE RESOLUTION GIVEN TO ALL CLASS MEMBERS IN THE SAME WAY AS THE NOTIFICATION OF ACCEPTANCE OF THE CLASS COMPLAINT		
f. DOES THE NOTICE OF THE CLASS CONTAIN THE TERMS OF THE CORRECTIVE ACTION, IF ANY		
g. WERE THE TERMS OF THE ADJUSTMENT FIRST COORDINATED WITH THE EEO OFFICER, LABOR COUNSELOR, AND THE CPO		
h. DID THE ADJUSTMENT INCLUDE AN AWARD OF ATTORNEY'S FEES AND/OR COSTS		
i. IS THE ADJUSTMENT AND CLASS NOTICE TABBED IN THE COMPLAINT FILE		
24. WAS A HEARING CONDUCTED BY THE EEOC HEARING EXAMINER		
REMARKS (Continue on white bond paper if necessary)		
DATE	SIGNATURE OF EEO COUNSELOR	
DATE	SIGNATURE OF EEO OFFICER	
FINAL ARMY ACTION		
DATE	ACTION	
SIGNATURE OF EEOCRA REVIEWING OFFICIAL		

CHRONOLOGY OF CLASS EEO COMPLAINT			EEOCRA DOCKET NO
For use of the form, see AR 690-600. the proponent agency is the Office of the Secretary of the Army.			
NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION
INSTRUCTIONS <i>The days listed in parentheses are administrative suspense goals established by EEOC or the Army. Failure to meet any of the listed suspenses should be explained in the remarks section of this form or on a continuation sheet, if necessary. All days referred to in this form are calendar days. In computing days between dates, disregard the first day and count the last day. The actual number of days in each month will be counted.</i>			
ACTIONS	DATE: 19----	CUMULATIVE ELAPSED DAYS	
1. DATE OF ALLEGED OFFENSE/PERSONNEL ACTION			
2. DATE COUNSELOR CONTACTED (90 DAYS)			
3. DATE OF FINAL INTERVIEW (30 DAYS)			
4. DATE OF FORMAL COMPLAINT (15 DAYS)			
5. DATE COMPLAINT FORWARDED TO EEOC (10 DAYS)			
6. DATE EEOC COMPLAINTS EXAMINER NOTIFIES ARMY OF RECOMMENDED ACCEPTANCE OR REJECTION OF CLASS COMPLAINT			
7. DATE OF ARMY ACCEPTANCE OR REJECTION OF CLASS COMPLAINT (10 DAYS)			
8. DATE ARMY NOTIFIES CLASS MEMBERS (15 DAYS)			
9. DATE OF EEOC HEARING			
10. DATE EEOC COMPLAINTS EXAMINER NOTIFIES ARMY OF DEFININGS AND RECOMMENDATION ON CLASS ISSUES			
11. DATE FINAL ARMY DECISION (30 DAYS)			
12. TOTAL PROCESSING DAYS FROM DATE CLASS COMPLAINT WAS FILED			
13. DATE OF APPEAL TO EEOC OFFICE OF REVIEW AND APPEALS			
14. DATE EEOC REQUEST RECORDS			
15. DATE ARMY FORWARDED RECORDS TO EEOC			
16. DATE DECISION BY EEOC OFFICE OF REVIEW AND APPEALS			
17. LITIGATION: DATE SUIT FILED			
18. DATE COURT DECISION			
REMARKS (Continue on white bond paper if necessary)			
DATE	SIGNATURE OF EEO OFFICER		
DATE	SIGNATURE OF EEOCRA OFFICIAL COMPLETING CHRONOLOGY SHEET		

DISPOSITION OF COMPLAINT OF DISCRIMINATION						REQUIREMENT CONTROL	
For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army						SYMBOL 0288-EEO-SA	
NAME OF COMPLAINANT (Last, First, Middle Initial)			ACTIVITY			EEOCRA DOCKET NO.	
COMPLAINANT'S SSN						DATE COMPLAINT FILED	
COMPLAINANT'S JOB TITLE AND GRADE							
BASIS OF DISCRIMINATION COMPLAINT (Check appropriate box)							
RACE	COLOR	RELIGION	SEX (Male) (Female)	HANDICAP (Mental) (Physical)	AGE (STATE)	NATIONAL ORIGIN (STATE)	REPRISAL
ALLEGATION(S) OF DISCRIMINATION (SUMMARIZE) (Continue on white bond paper if necessary)							
IF AN INVESTIGATION WAS CONDUCTED, DID THE INVESTIGATOR FIND DISCRIMINATION / / YES / / NO / / NO DISCRIMINATION BUT RECOMMENDED CORRECTIVE ACTION							
CONCERNING THE USACARA RECOMMENDATION, DID THE COMMANDER, IN THE PROPOSED DISPOSITION (CHECK ONE) / / REJECT IT / / ACCEPT IT / / MODIFY IT							
DID THE COMPLAINANT (CHECK ONE) / / FAIL TO RESPOND TO THE NOTICE OF PROPOSED DISPOSITION / / REQUEST DECISION BY THE DIRECTOR OF EEO WITHOUT HEARING / / REQUEST A HEARING AND SUBSEQUENT REVIEW AND DECISION BY THE DIRECTOR OF EEO							
IF NO HEARING WAS HELD, OR THE HEARING WAS NOT COMPLETED, DID THE AGENCY MAKE A DECISION ON THE MERITS (CHECK ONE) / / YES / / NO / / PROPOSED DISPOSITION ADOPTED AS THE AGENCY FINAL DECISION							
WHERE DISCRIMINATION IS FOUND, REPORT REASONS FOR TAKING OR NOT TAKING DISCIPLINARY ACTION							
DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN AS A RESULT OF THE COMPLAINT (CHECK APPROPRIATE BOX(ES)) / / SEPARATION / / INVOLUNTARY DOWNGRADE / / REASSIGNMENT TO NON-SUPERVISORY POSITION / / SUSPENSION / / LATERAL REASSIGNMENT / / WRITTEN REPRIMAND / / TRAINING / / ORAL REPRIMAND / / COUNSELING / / NONE / / OTHER (SPECIFY)							
DESCRIPTION OF ANY REMEDIAL OR CORRECTIVE ACTION TAKEN INCLUDING THOSE COMPLAINTS WITHDRAWN BY THE COMPLAINANT AND THOSE CANCELLED FOR FAILURE TO PROSECUTE							
NATURE OF CLOSING ACTION (Check one)							
REJECTION (UNTIMELY)	REJECTION (OUT- SIDE PURVIEW)	REJECTION (IDENTICAL TO PREVIOUS COMPLAINT)	SETTLEMENT				
WITHDRAWAL	DECISION ON MERITS	CANCELLATION (FAILURE TO PROSECUTE)	CANCELLATION - MSPB/ LITIGATION DECISION				
TOTAL PROCESSING DAYS (FROM DATE OF FORMAL COMPLAINT TO CLOSURE)							
NAME, TITLE AND TELEPHONE NUMBER OF AGENCY OFFICIAL PREPARING REPORT							
INDICATE AMOUNT OF MONETARY RELIEF PROVIDED							
BACKPAY (RETROACTIVE HIRE)	BACKPAY (RETROACTIVE PROMOTION)	BACKPAY (RESCIND DISCIPLINARY ACTION)					
\$	\$	\$					
BACKPAY (REINSTATEMENT)	BACKPAY (OTHER)	TOTAL ATTORNEY FEES AND COSTS AWARDED					
\$	\$	\$					
REMARKS (Continue on white bond paper if necessary)							
SIGNATURE OF EEO OFFICER							

DA FORM 5497-R, Dec 85

John O. Roach II,
Department of the Army Liaison Officer with
the Federal Register.

[FR Doc. 86-1842 Filed 1-30-86; 8:45 am]

BILLING CODE 3710-08-M

Environmental Protection Agency

Friday
January 31, 1986

Part III

Environmental Protection Agency

40 CFR Part 271

Reversion of State Hazardous Waste
Management Programs; Notice of
Expiration of RCRA Interim Authorization

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[SWH-FRL 2964-4]

Reversion of State Hazardous Waste Management Programs**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of expiration of RCRA interim authorization.

SUMMARY: This notice announces the expiration of interim authorization in States which have not received final authorization under the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. These States received interim authorization under RCRA to operate all or part of the RCRA hazardous waste management program in lieu of EPA operating the Federal program. However, the Hazardous and Solid Waste Amendments of 1984 (HSWA) provide that interim authorization terminates on January 31, 1986. If a State has not received final authorization by that date, authority to implement the RCRA hazardous waste management program reverts to EPA. EPA must administer the Federal program in that State until the State receives final authorization. This notice identifies the States in which operation of the RCRA program will revert to EPA on January 31, 1986.

EFFECTIVE DATE: Interim authorization will expire at 1:00 p.m. Eastern Standard Time, on January 31, 1986, for any interim authorized State which has not received final authorization. As of that date, EPA will be responsible for operating the Federal hazardous waste program in those States. The State programs will continue in effect under State legal authorities.

ADDRESSES: Listed below are addresses and telephone numbers of EPA Regional Office contacts who can provide additional information on States whose RCRA programs revert to EPA on January 31, 1986:

California: EPA Region IX, 215 Fremont Street, San Francisco, CA 94105.

Attention: Karen Ueno, (415) 974-8160

Connecticut: EPA Region I, John F. Kennedy Bldg., Boston, MA 02203. Attention: Gerard Sotolongo, (617) 223-1724

Maine: EPA Region I, John F. Kennedy Bldg., Boston, MA 02203, Attention: Paul Bedrosian, (617) 223-1915

New York: EPA Region II, 2AWM-SW, 9th floor, 26 Federal Plaza, New York, NY 10278, Attention: Evan Liblit, (212) 264-1317

Ohio: EPA Region V, 230 So. Dearborn Street, Chicago, IL 60604, Attention: Charles Wilk, (312) 886-4177

Puerto Rico: EPA Region II, 2AWM-SW, 9th floor, 26 Federal Plaza, New York, NY 10278, Attention: Fred Kozak, (212) 264-0547

West Virginia: EPA Region III, 841 Chestnut Street, Philadelphia, PA 19107, Attention: Renee Gruber, (215) 597-3436

FOR FURTHER INFORMATION CONTACT:

The RCRA Hotline at (800) 424-9346, or in Washington, D.C., at 382-3000 or Martha A. Madison, State Programs Branch (WH-563-B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-2210.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize States to operate State hazardous waste management programs in lieu of the Federal program. Under RCRA section 3006(c)(1), the Agency has the authority to grant interim authorization to State programs that are "substantially equivalent" to the Federal program. Under RCRA section 3006(b), EPA grants final authorization to State hazardous waste programs that: (1) Are equivalent to the Federal hazardous waste program; (2) are consistent with the Federal program and other State programs which have received final authorization; and (3) provide adequate enforcement.

Section 3006(c)(1) of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides that interim authorization under Section 3006(c)(1) automatically expires on January 31, 1986. On that date authority to administer and enforce the entire RCRA program reverts to the Federal government unless the State has been granted final authorization. Authority to run the RCRA program will return to the State when it obtains final authorization. EPA may not extend the January 31 deadline administratively.

Seven States with interim authorization have not received final authorization as of this date. RCRA authority for those States reverts to EPA on January 31, 1986. The purpose of this notice is to alert the public about the reversion of the RCRA program in those States and to explain EPA's plans for assuming responsibility for those programs. This notice lists those States whose RCRA programs are reverting to EPA.

The regulated community should take particular note that beginning January 31, hazardous waste handlers in States whose interim authorization expires will

be required by law to comply with the Federal regulations in Title 40 of the Code of Federal Regulations, Part 124, 260-265 and 270, as well as the State regulations. (Copies of the Code of Federal Regulations are available for sale in two volumes (Parts 100 to 149 and Parts 190 to 399) from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.) The State will continue to implement its State hazardous waste program, as this program remains in effect under State law.

The expiration of RCRA interim authorization in a State poses significant practical problems for EPA, the State, and the regulated community. Because most States are actively pursuing final authorization, reversion of RCRA authority to EPA is likely to be temporary. EPA must reconcile its legal responsibility to implement and enforce the Federal RCRA program, the practical impossibility of fully implementing the Federal program for what generally will be a brief period, and the need to minimize conflicts with the States. Note that in cases where the reversion will be less than 90 days it is considered a short term reversion, and EPA will make every effort to avoid disrupting the State program during this limited period of time. For a description of the manner in which EPA intends to administer the program, set priorities and use its enforcement discretion, see 50 FR 48406, November 25, 1985. For information regarding a specific State, contact the appropriate Regional Office listed in the Addresses section.

The States listed below will not receive final authorization by January 31, 1986 and, therefore, their interim authorization will expire on that date.

I. States whose RCRA programs are expected to revert for less than 90 days—Connecticut, New York, West Virginia.

II. States whose RCRA programs are expected to revert for more than 90 days—California, Maine, Ohio, Puerto Rico.

In States whose programs are expected to revert to EPA for less than 90 days, regulated parties should continue to send reports required by EPA to the States and not to EPA. In States whose RCRA programs are expected to revert to EPA for more than 90 days, reports should be sent to the appropriate EPA Regional Office. (See "FOR FURTHER INFORMATION CONTACT" Section for names and addresses). Those States are likely to assist the Region in implementing the Federal hazardous waste program until the time

they receive final authorization. The appropriate Regional Offices will be notifying the regulated community regarding RCRA program reversions, and will provide a list of reporting requirements with the notification.

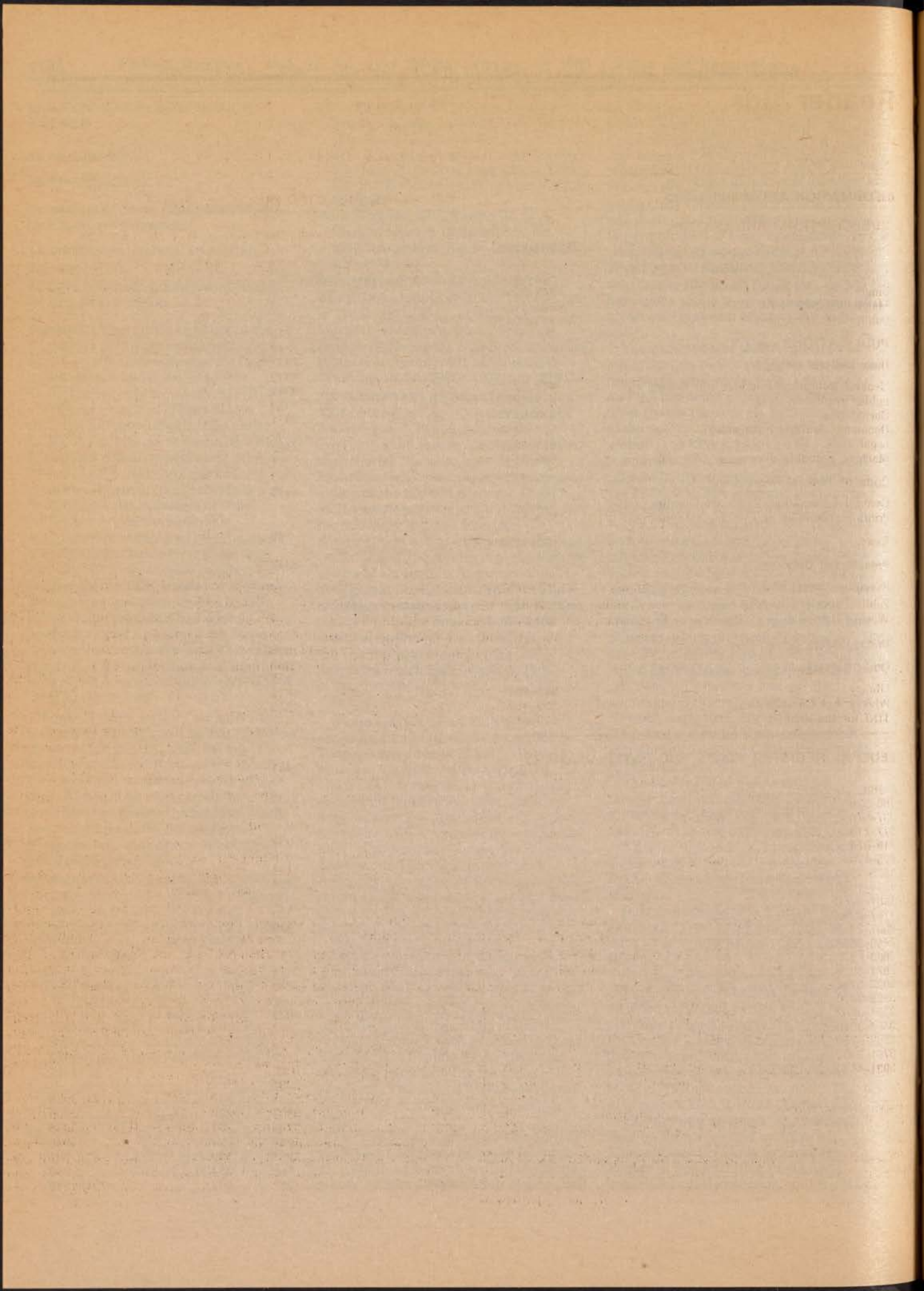
Dated: January 27, 1986.

Jack W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 86-2161 Filed 1-30-86; 8:45 am]

BILLING CODE 6560-50-M



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Friday, January 31, 1986

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